



# Children Act 1989

## 1989 CHAPTER 41

### PART III

#### [<sup>F1</sup>SUPPORT FOR CHILDREN AND FAMILIES PROVIDED BY LOCAL AUTHORITIES IN ENGLAND]

##### Textual Amendments

- F1** Pt. 3 heading substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **57(2)**

#### *[<sup>F2</sup>Application to local authorities in England*

##### Textual Amendments

- F2** S. 16B and cross-heading inserted (E.W.) (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **57(1)**

#### **16B. Application to local authorities in England**

- (1) This Part applies in relation to local authorities in England.
- (2) Accordingly, unless the contrary intention appears, a reference in this Part to a local authority means a local authority in England.]

#### *Provision of services for children and their families*

#### **17 Provision of services for children in need, their families and others.**

- (1) It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)—

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- (a) to safeguard and promote the welfare of children within their area who are in need; and
  - (b) so far as is consistent with that duty, to promote the upbringing of such children by their families,
- by providing a range and level of services appropriate to those children's needs.
- (2) For the purpose principally of facilitating the discharge of their general duty under this section, every local authority shall have the specific duties and powers set out in Part 1 of Schedule 2.
- (3) Any service provided by an authority in the exercise of functions conferred on them by this section may be provided for the family of a particular child in need or for any member of his family, if it is provided with a view to safeguarding or promoting the child's welfare.
- (4) The [<sup>F3</sup>Secretary of State] may by order amend any provision of Part I of Schedule 2 or add any further duty or power to those for the time being mentioned there.
- [<sup>F4</sup>(4A) Before determining what (if any) services to provide for a particular child in need in the exercise of functions conferred on them by this section, a local authority shall, so far as is reasonably practicable and consistent with the child's welfare—
- (a) ascertain the child's wishes and feelings regarding the provision of those services; and
  - (b) give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.]
- (5) Every local authority—
- (a) shall facilitate the provision by others (including in particular voluntary organisations) of services which [<sup>F5</sup>it is a function of the authority] to provide by virtue of this section, or section 18, 20, [<sup>F6</sup>[<sup>F7</sup>22A to 22C], 23B to 23D, 24A or 24B]; and
  - (b) may make such arrangements as they see fit for any person to act on their behalf in the provision of any such service.
- (6) The services provided by a local authority in the exercise of functions conferred on them by this section may include [<sup>F8</sup>providing accommodation and] giving assistance in kind or [<sup>F9</sup> . . . in cash.
- (7) Assistance may be unconditional or subject to conditions as to the repayment of the assistance or of its value (in whole or in part).
- (8) Before giving any assistance or imposing any conditions, a local authority shall have regard to the means of the child concerned and of each of his parents.
- (9) No person shall be liable to make any repayment of assistance or of its value at any time when he is in receipt [<sup>F10</sup>of universal credit (except in such circumstances as may be prescribed),] of income support [<sup>F11</sup>under][<sup>F12</sup> Part VII of the Social Security Contributions and Benefits Act 1992,][<sup>F13</sup> of any element of child tax credit other than the family element, of working tax credit][<sup>F14</sup>, of an income-based jobseeker's allowance or of an income-related employment and support allowance].
- (10) For the purposes of this Part a child shall be taken to be in need if—
- (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;

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- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) he is disabled,

and “family”, in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.

- (11) For the purposes of this Part, a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and in this Part—

“development” means physical, intellectual, emotional, social or behavioural development; and

“health” means physical or mental health.

- [<sup>F15</sup>(12) The Treasury may by regulations prescribe circumstances in which a person is to be treated for the purposes of this Part (or for such of those purposes as are prescribed) as in receipt of any element of child tax credit other than the family element or of working tax credit.]

- [<sup>F16</sup>(13) The duties imposed on a local authority by virtue of this section do not apply in relation to a child in the authority’s area who is being looked after by a local authority in Wales in accordance with Part 6 of the Social Services and Well-being (Wales) Act 2014.]

#### Textual Amendments

- F3** Words in s. 17(4) substituted (6.4.2016) by *The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016* (S.I. 2016/413), regs. 2(1), **58(a)**
- F4** S. 17(4A) inserted (1.3.2005 for E. and 1.4.2006 for W.) by *Children Act 2004* (c. 31), s. **53(1)**; S.I. 2005/394, art. **2(1)(g)**; S.I. 2006/885, art. **2(2)**
- F5** Words in s. 17(5)(a) substituted (1.4.2011 for E., 6.4.2016 for W.) by *Children and Young Persons Act 2008* (c. 23), s. 44(4), **Sch. 1 para. 1(b)**; S.I. 2010/2981, art. 4(a); S.I. 2016/452, art. 2(b)
- F6** Words in s. 17(5)(a) substituted (1.10.2001) by 2000 c. 35, s. **7(2)**; S.I. 2001/2191, art. **2**; S.I. 2001/2878, art. **2**
- F7** Words in s. 17(5)(a) substituted (1.4.2011 for E., 6.4.2016 for W.) by *Children and Young Persons Act 2008* (c. 23), s. 44(4), **Sch. 1 para. 1(a)**; S.I. 2010/2981, art. 4(a); S.I. 2016/452, art. 2(b)
- F8** Words in s. 17(6) inserted (7.11.2002) by 2002 c. 38, ss. **116(1)**, 148(1) (with Sch. 4 paras. 6-8)
- F9** Words in s. 17(6) repealed (1.4.2011 for E., 19.6.2012 for W.) by *Children and Young Persons Act 2008* (c. 23), ss. 24, 44(4), **Sch. 4**; S.I. 2010/2981, art. 4(i)(l); S.I. 2012/1553, art. 2(c)(e)
- F10** Words in s. 17(9) inserted (29.4.2013) by *Welfare Reform Act 2012* (c. 5), s. 150(3), **Sch. 2 para. 1(a)**; S.I. 2013/983, art. 3(1)(b)(i)
- F11** Words in s. 17(9) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(2)(a); S.I. 2003/962, art. **2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)
- F12** Words in s. 17(9) substituted (1.7.1992) by *Social Security (Consequential Provisions) Act 1992* (c. 6), ss. 4, 7(2), **Sch. 2 para. 108(a)**.
- F13** Words in s. 17(9) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(2)(b); S.I. 2003/962, art. **2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)
- F14** Words in s. 17(9) substituted (27.10.2008) by *Welfare Reform Act 2007* (c. 5), ss. 28, 70, **Sch. 3 para. 6(2)**; S.I. 2008/787, art. **2(4)(f)**
- F15** S. 17(12) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(3); S.I. 2003/962, art. **2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)
- F16** S. 17(13) inserted (6.4.2016) by *The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016* (S.I. 2016/413), regs. 2(1), **58(b)**

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**Modifications etc. (not altering text)**

**C1** s. 17 excluded (6.12.1999) by S.I. 1999/3056, reg. 12

**C2** S. 17 restricted (8.1.2003) by 2002 c. 41, s. 54, Sch. 3 (with s. 159); S.I. 2002/2811, art. 2, Sch.

**Commencement Information**

**I1** S. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

[<sup>F17</sup>17ZAYoung carers' needs assessments<sup>F18</sup> ...

- (1) A local authority<sup>F19</sup> ... must assess whether a young carer within their area has needs for support and, if so, what those needs are, if—
  - (a) it appears to the authority that the young carer may have needs for support, or
  - (b) the authority receive a request from the young carer or a parent of the young carer to assess the young carer's needs for support.
- (2) An assessment under subsection (1) is referred to in this Part as a “ young carer's needs assessment ”.
- (3) In this Part “ young carer ” means a person under 18 who provides or intends to provide care for another person (but this is qualified by section 17ZB(3)).
- (4) Subsection (1) does not apply in relation to a young carer if the local authority have previously carried out a care-related assessment of the young carer in relation to the same person cared for.
- (5) But subsection (1) does apply (and so a young carer's needs assessment must be carried out) if it appears to the authority that the needs or circumstances of the young carer or the person cared for have changed since the last care-related assessment.
- (6) “ Care-related assessment ” means—
  - (a) a young carer's needs assessment;
  - (b) an assessment under any of the following—
    - (i) section 1 of the Carers (Recognition and Services) Act 1995;
    - (ii) section 1 of the Carers and Disabled Children Act 2000;
    - (iii) section 4(3) of the Community Care (Delayed Discharges) Act 2003.  
[ Part 1 of the Care Act 2014.]
- (7) A young carer's needs assessment must include an assessment of whether it is appropriate for the young carer to provide, or continue to provide, care for the person in question, in the light of the young carer's needs for support, other needs and wishes.
- (8) A local authority, in carrying out a young carer's needs assessment, must have regard to—
  - (a) the extent to which the young carer is participating in or wishes to participate in education, training or recreation, and
  - (b) the extent to which the young carer works or wishes to work.
- (9) A local authority, in carrying out a young carer's needs assessment, must involve—
  - (a) the young carer,
  - (b) the young carer's parents, and

- (c) any person who the young carer or a parent of the young carer requests the authority to involve.
- (10) A local authority that have carried out a young carer's needs assessment must give a written record of the assessment to—
  - (a) the young carer,
  - (b) the young carer's parents, and
  - (c) any person to whom the young carer or a parent of the young carer requests the authority to give a copy.
- (11) Where the person cared for is under 18, the written record must state whether the local authority consider him or her to be a child in need.
- (12) A local authority <sup>F21</sup> ... must take reasonable steps to identify the extent to which there are young carers within their area who have needs for support.

#### Textual Amendments

- F17** Ss. 17ZA-17ZC inserted (1.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 96(1)**, 139(6); S.I. 2015/375, art. 2(c)
- F18** Words in s. 17ZA heading omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **59(c)**
- F19** Words in s. 17ZA(1) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **59(a)**
- F20** S. 17ZA(6)(b)(iv) added (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 44** (with arts. 1(3), 3)
- F21** Words in s. 17ZA(12) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **59(b)**

#### **17ZB Young carers' needs assessments: supplementary**

- (1) This section applies for the purposes of section 17ZA.
- (2) “ Parent ”, in relation to a young carer, includes—
  - (a) a parent of the young carer who does not have parental responsibility for the young carer, and
  - (b) a person who is not a parent of the young carer but who has parental responsibility for the young carer.
- (3) A person is not a young carer if the person provides or intends to provide care—
  - (a) under or by virtue of a contract, or
  - (b) as voluntary work.
- (4) But in a case where the local authority consider that the relationship between the person cared for and the person under 18 providing or intending to provide care is such that it would be appropriate for the person under 18 to be regarded as a young carer, that person is to be regarded as such (and subsection (3) is therefore to be ignored in that case).
- (5) The references in section 17ZA and this section to providing care include a reference to providing practical or emotional support.
- (6) Where a local authority—

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- (a) are required to carry out a young carer's needs assessment, and
  - (b) are required or have decided to carry out some other assessment of the young carer or of the person cared for;
- the local authority may, subject to subsection (7), combine the assessments.
- (7) A young carer's needs assessment may be combined with an assessment of the person cared for only if the young carer and the person cared for agree.
- (8) The Secretary of State may by regulations make further provision about carrying out a young carer's needs assessment; the regulations may, in particular—
- (a) specify matters to which a local authority is to have regard in carrying out a young carer's needs assessment;
  - (b) specify matters which a local authority is to determine in carrying out a young carer's needs assessment;
  - (c) make provision about the manner in which a young carer's needs assessment is to be carried out;
  - (d) make provision about the form a young carer's needs assessment is to take.
- (9) The Secretary of State may by regulations amend the list in section 17ZA(6)(b) so as to—
- (a) add an entry,
  - (b) remove an entry, or
  - (c) vary an entry.

#### Textual Amendments

**F17** Ss. 17ZA-17ZC inserted (1.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), ss. **96(1)**, 139(6); S.I. [2015/375](#), art. 2(c)

### 17ZC Consideration of young carers' needs assessments

A local authority that carry out a young carer's needs assessment must consider the assessment and decide—

- (a) whether the young carer has needs for support in relation to the care which he or she provides or intends to provide;
- (b) if so, whether those needs could be satisfied (wholly or partly) by services which the authority may provide under section 17; and
- (c) if they could be so satisfied, whether or not to provide any such services in relation to the young carer.]

#### Textual Amendments

**F17** Ss. 17ZA-17ZC inserted (1.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), ss. **96(1)**, 139(6); S.I. [2015/375](#), art. 2(c)

### [<sup>F22</sup>17ZD Parent carers' needs assessments <sup>F23</sup> ...

- (1) A local authority <sup>F24</sup> ... must, if the conditions in subsections (3) and (4) are met, assess whether a parent carer within their area has needs for support and, if so, what those needs are.

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- (2) In this Part “ parent carer ” means a person aged 18 or over who provides or intends to provide care for a disabled child for whom the person has parental responsibility.
- (3) The first condition is that—
  - (a) it appears to the authority that the parent carer may have needs for support, or
  - (b) the authority receive a request from the parent carer to assess the parent carer's needs for support.
- (4) The second condition is that the local authority are satisfied that the disabled child cared for and the disabled child's family are persons for whom they may provide or arrange for the provision of services under section 17.
- (5) An assessment under subsection (1) is referred to in this Part as a “ parent carer's needs assessment ”.
- (6) Subsection (1) does not apply in relation to a parent carer if the local authority have previously carried out a care-related assessment of the parent carer in relation to the same disabled child cared for.
- (7) But subsection (1) does apply (and so a parent carer's needs assessment must be carried out) if it appears to the authority that the needs or circumstances of the parent carer or the disabled child cared for have changed since the last care-related assessment.
- (8) “ Care-related assessment ” means—
  - (a) a parent carer's needs assessment;
  - (b) an assessment under any of the following—
    - (i) section 1 of the Carers (Recognition and Services) Act 1995;
    - (ii) section 6 of the Carers and Disabled Children Act 2000;
    - (iii) section 4(3) of the Community Care (Delayed Discharges) Act 2003.  
[ Part 1 of the Care Act 2014.]
    - <sup>F25</sup>(iv)
- (9) A parent carer's needs assessment must include an assessment of whether it is appropriate for the parent carer to provide, or continue to provide, care for the disabled child, in the light of the parent carer's needs for support, other needs and wishes.
- (10) A local authority in carrying out a parent carer's needs assessment must have regard to—
  - (a) the well-being of the parent carer, and
  - (b) the need to safeguard and promote the welfare of the disabled child cared for and any other child for whom the parent carer has parental responsibility.
- (11) In subsection (10) “ well-being ” has the same meaning as in Part 1 of the Care Act 2014.
- (12) A local authority, in carrying out a parent carer's needs assessment, must involve—
  - (a) the parent carer,
  - (b) any child for whom the parent carer has parental responsibility, and
  - (c) any person who the parent carer requests the authority to involve.
- (13) A local authority that have carried out a parent carer's needs assessment must give a written record of the assessment to—
  - (a) the parent carer, and

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- (b) any person to whom the parent carer requests the authority to give a copy.
- (14) A local authority <sup>F26</sup> ... must take reasonable steps to identify the extent to which there are parent carers within their area who have needs for support.

#### Textual Amendments

- F22** Ss. 17ZD-17ZF inserted (1.4.2015) by Children and Families Act 2014 (c. 6), ss. 97(1), 139(6); S.I. 2015/375, art. 2(c)
- F23** Word in s. 17ZD heading omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 60(c)
- F24** Words in s. 17ZD(1) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 60(a)
- F25** S. 17ZD(8)(b)(iv) added (1.4.2015) by The Care Act 2014 and Children and Families Act 2014 (Consequential Amendments) Order 2015 (S.I. 2015/914), art. 1(2), Sch. para. 45 (with arts. 1(3), 3)
- F26** Words in s. 17ZD(14) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 60(b)

### 17ZE Parent carers' needs assessments: supplementary

- (1) This section applies for the purposes of section 17ZD.
- (2) The references in section 17ZD to providing care include a reference to providing practical or emotional support.
- (3) Where a local authority—
- (a) are required to carry out a parent carer's needs assessment, and
  - (b) are required or have decided to carry out some other assessment of the parent carer or of the disabled child cared for,
- the local authority may combine the assessments.
- (4) The Secretary of State may by regulations make further provision about carrying out a parent carer's needs assessment; the regulations may, in particular—
- (a) specify matters to which a local authority is to have regard in carrying out a parent carer's needs assessment;
  - (b) specify matters which a local authority is to determine in carrying out a parent carer's needs assessment;
  - (c) make provision about the manner in which a parent carer's needs assessment is to be carried out;
  - (d) make provision about the form a parent carer's needs assessment is to take.
- (5) The Secretary of State may by regulations amend the list in section 17ZD(8)(b) so as to—
- (a) add an entry,
  - (b) remove an entry, or
  - (c) vary an entry.

#### Textual Amendments

- F22** Ss. 17ZD-17ZF inserted (1.4.2015) by Children and Families Act 2014 (c. 6), ss. 97(1), 139(6); S.I. 2015/375, art. 2(c)



## 17ZF Consideration of parent carers' needs assessments

A local authority that carry out a parent carer's needs assessment must consider the assessment and decide—

- (a) whether the parent carer has needs for support in relation to the care which he or she provides or intends to provide;
- (b) whether the disabled child cared for has needs for support;
- (c) if paragraph (a) or (b) applies, whether those needs could be satisfied (wholly or partly) by services which the authority may provide under section 17; and
- (d) if they could be so satisfied, whether or not to provide any such services in relation to the parent carer or the disabled child cared for.]

### Textual Amendments

**F22** Ss. 17ZD-17ZF inserted (1.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 97(1)**, 139(6); S.I. 2015/375, art. 2(c)

## [<sup>F27</sup>17ZG]Section 17 services: continued provision where EHC plan maintained

- (1) This section applies where, immediately before a child in need reaches the age of 18—
  - (a) a local authority <sup>F28</sup> ... is providing services for the child in the exercise of functions conferred by section 17, and
  - (b) an EHC plan is maintained for the child.
- (2) The local authority may continue to provide services for the child in the exercise of those functions after the child reaches the age of 18, but may not continue to do so after the EHC plan has ceased to be maintained [<sup>F29</sup>, except in so far as the authority is required to do so under section 17ZH or 17ZI].
- (3) In this section “ EHC plan ” means a plan within section 37(2) of the Children and Families Act 2014. ]

### Textual Amendments

**F27** S. 17ZG inserted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 50**, 139(6); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505))

**F28** Words in s. 17ZG(1)(a) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **61**

**F29** Words in s. 17ZG(2) inserted (1.4.2015) by [Care Act 2014 \(c. 23\)](#), **ss. 66(2)**, 127(1); S.I. 2015/993, art. 2(q) (with transitional provisions in S.I. 2015/995)

## [<sup>F30</sup>17ZH]Section 17 services: transition for children to adult care and support

- (1) Subsections (2) to (4) apply where a local authority <sup>F31</sup> ... providing services for a child in need in the exercise of functions conferred by section 17—
  - (a) are required by section 58(1) or 63(1) of the Care Act 2014 to carry out a child's needs assessment or young carer's assessment in relation to the child, or
  - (b) are required by section 60(1) of that Act to carry out a child's carer's assessment in relation to a carer of the child.

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- (2) If the local authority carry out the assessment before the child reaches the age of 18 and decide to treat it as a needs or carer's assessment in accordance with section 59(6), 61(6) or 64(7) of the Care Act 2014 (with Part 1 of that Act applying to the assessment as a result), the authority must continue to comply with section 17 after the child reaches the age of 18 until they reach a conclusion in his case.
- (3) If the local authority carry out the assessment before the child reaches the age of 18 but decide not to treat it as a needs or carer's assessment in accordance with section 59(6), 61(6) or 64(7) of the Care Act 2014—
  - (a) they must carry out a needs or carer's assessment (as the case may be) after the child reaches the age of 18, and
  - (b) they must continue to comply with section 17 after he reaches that age until they reach a conclusion in his case.
- (4) If the local authority do not carry out the assessment before the child reaches the age of 18, they must continue to comply with section 17 after he reaches that age until—
  - (a) they decide that the duty under section 9 or 10 of the Care Act 2014 (needs or carer's assessment) does not apply, or
  - (b) having decided that the duty applies and having discharged it, they reach a conclusion in his case.
- (5) Subsection (6) applies where a local authority<sup>F32</sup> ... providing services for a child in need in the exercise of functions conferred by section 17—
  - (a) receive a request for a child's needs assessment or young carer's assessment to be carried out in relation to the child or for a child's carer's assessment to be carried out in relation to a carer of the child, but
  - (b) have yet to be required by section 58(1), 60(1) or 63(1) of the Care Act 2014 to carry out the assessment.
- (6) If the local authority do not decide, before the child reaches the age of 18, whether or not to comply with the request, they must continue to comply with section 17 after he reaches that age until—
  - (a) they decide that the duty under section 9 or 10 of the Care Act 2014 does not apply, or
  - (b) having decided that the duty applies and having discharged it, they reach a conclusion in his case.
- (7) A local authority reach a conclusion in a person's case when—
  - (a) they conclude that he does not have needs for care and support or for support (as the case may be), or
  - (b) having concluded that he has such needs and that they are going to meet some or all of them, they begin to do so, or
  - (c) having concluded that he has such needs, they conclude that they are not going to meet any of those needs (whether because those needs do not meet the eligibility criteria or for some other reason).
- (8) In this section, “child's needs assessment”, “child's carer's assessment”, “young carer's assessment”, “needs assessment”, “carer's assessment” and “eligibility criteria” each have the same meaning as in Part 1 of the Care Act 2014.

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#### Textual Amendments

- F30** Ss. 17ZH, 17ZI inserted (1.4.2015) by Care Act 2014 (c. 23), ss. 66(1), 127(1); S.I. 2015/993, art. 2(q) (with transitional provisions in S.I. 2015/995)
- F31** Words in s. 17ZH(1) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 62(a)
- F32** Words in s. 17ZH(5) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 62(b)

#### Modifications etc. (not altering text)

- C3** S. 17ZH(2)-(4) restricted (temp.) (31.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(2), Sch. 12 para. 15 (with ss. 88-90, Sch. 12 para. 16); S.I. 2020/388, reg. 2 (which amending provision expires (17.7.2021) by virtue of S.I. 2021/856, reg. 4(a))
- C4** S. 17ZH(6) restricted (temp.) (31.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(2), Sch. 12 para. 15 (with ss. 88-90, Sch. 12 para. 16); S.I. 2020/388, reg. 2 (which amending provision expires (17.7.2021) by virtue of S.I. 2021/856, reg. 4(a))

### 17ZI Section 17 services: provision after EHC plan no longer maintained

- (1) This section applies where a local authority<sup>F33</sup> ... providing services for a person in the exercise, by virtue of section 17ZG, of functions conferred by section 17 are required to carry out a needs assessment in that person's case.
- (2) If the EHC plan for the person ceases to be maintained before the local authority reach a conclusion in the person's case, they must continue to comply with section 17 until they do reach a conclusion in his case.
- (3) The references to the local authority reaching a conclusion in a person's case are to be read with section 17ZH(7).
- (4) In this section, “needs assessment” has the same meaning as in Part 1 of the Care Act 2014. ]

#### Textual Amendments

- F30** Ss. 17ZH, 17ZI inserted (1.4.2015) by Care Act 2014 (c. 23), ss. 66(1), 127(1); S.I. 2015/993, art. 2(q) (with transitional provisions in S.I. 2015/995)
- F33** Words in s. 17ZI(1) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 63

### [<sup>F34</sup>17A Direct payments

- (1) The [<sup>F35</sup>Secretary of State] may by regulations make provision for and in connection with requiring or authorising the responsible authority in the case of a person of a prescribed description who falls within subsection (2) to make, with that person's consent, such payments to him as they may determine in accordance with the regulations in respect of his securing the provision of the service mentioned in that subsection.
- (2) A person falls within this subsection if he is—
  - (a) a person with parental responsibility for a disabled child,

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- (b) a disabled person with parental responsibility for a child, or
- (c) a disabled child aged 16 or 17,

and a local authority (“ the responsible authority ”) have decided for the purposes of section 17 that the child’s needs (or, if he is such a disabled child, his needs) call for the provision by them of a service in exercise of functions conferred on them under that section.

[<sup>F36</sup>(3) Regulations under this section may, in particular, make provision—

- (a) specifying circumstances in which the responsible authority are not required or authorised to make any payments under the regulations to a person, whether those circumstances relate to the person in question or to the particular service mentioned in subsection (2);
- (b) for any payments required or authorised by the regulations to be made to a person by the responsible authority (“direct payments”) to be made to that person (“the payee”) as gross payments or alternatively as net payments;
- (c) for the responsible authority to make for the purposes of subsection (3A) or (3B) such determination as to—
  - (i) the payee’s means, and
  - (ii) the amount (if any) which it would be reasonably practicable for the payee to pay to the authority by way of reimbursement or contribution,
 as may be prescribed;
- (d) as to the conditions falling to be complied with by the payee which must or may be imposed by the responsible authority in relation to the direct payments (and any conditions which may not be so imposed);
- (e) specifying circumstances in which the responsible authority—
  - (i) may or must terminate the making of direct payments,
  - (ii) may require repayment (whether by the payee or otherwise) of the whole or part of the direct payments;
- (f) for any sum falling to be paid or repaid to the responsible authority by virtue of any condition or other requirement imposed in pursuance of the regulations to be recoverable as a debt due to the authority;
- (g) displacing functions or obligations of the responsible authority with respect to the provision of the service mentioned in subsection (2) only to such extent, and subject to such conditions, as may be prescribed;
- (h) authorising direct payments to be made to any prescribed person on behalf of the payee;
- (j) as to matters to which the responsible authority must, or may, have regard when making a decision for the purposes of a provision of the regulations;
- (k) as to steps which the responsible authority must, or may, take before, or after, the authority makes a decision for the purposes of a provision of the regulations;
- (l) specifying circumstances in which a person who has fallen within subsection (3D) but no longer does so (whether because of fluctuating capacity, or regaining or gaining of capacity) is to be treated, or may be treated, as falling within subsection (3D) for purposes of this section or for purposes of regulations under this section.

(3A) For the purposes of subsection (3)(b) “gross payments” means payments—

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- (a) which are made at such a rate as the authority estimate to be equivalent to the reasonable cost of securing the provision of the service concerned; but
  - (b) which may be made subject to the condition that the payee pays to the responsible authority, by way of reimbursement, an amount or amounts determined under the regulations.
- (3B) For the purposes of subsection (3)(b) “net payments” means payments—
- (a) which are made on the basis that the payee will pay an amount or amounts determined under the regulations by way of contribution towards the cost of securing the provision of the service concerned; and
  - (b) which are accordingly made at such a rate below that mentioned in subsection (3A)(a) as reflects any such contribution by the payee.
- (3C) Regulations made for the purposes of subsection (3)(a) may provide that direct payments shall not be made in respect of the provision of residential accommodation for any person for a period in excess of a prescribed period.
- (3D) A person falls within this subsection if the person lacks capacity, within the meaning of the Mental Capacity Act 2005, to consent to the making of direct payments.]
- (4) Regulations under this section shall provide that, where payments are made under the regulations to a person falling within subsection (5)—
- (a) the payments shall be made at the rate mentioned in subsection [F37(3A)(a)]; and
  - (b) subsection [F38(3A)(b)] shall not apply.
- (5) A person falls within this subsection if he is—
- (a) a person falling within subsection (2)(a) or (b) and the child in question is aged 16 or 17, or
  - (b) a person who is in receipt of [F39 of universal credit (except in such circumstances as may be prescribed),] income support [F40 ... under Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4) , of any element of child tax credit other than the family element, of working tax credit][F41, of an income-based jobseeker's allowance or of an income-related employment and support allowance] .
- (6) In this section—
- F42 ...
  - “disabled” in relation to an adult has the same meaning as that given by section 17(11) in relation to a child;
  - “prescribed” means specified in or determined in accordance with regulations under this section F43 ...

#### Textual Amendments

- F34** S. 17A substituted (16.3.2003 for certain purposes and 8.4.2003 otherwise for E. and 1.11.2004 for W.) by 2001 c. 15, ss. 58, 70(2) (with ss. 64(9), 65(4)); S.I. 2003/850, **art. 3(1)(b)(2)(a)**; S.I. 2004/1754, **art. 2(2)(b)**
- F35** Words in s. 17A(1) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016](#) (S.I. 2016/413), regs. 2(1), **64**
- F36** S. 17A(3)-(3D) substituted for s. 17A(3) (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015](#) (S.I. 2015/914), art. 1(2), **Sch. para. 46(2)** (with arts. 1(3), 3)

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- F37** Word in s. 17A(4)(a) substituted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 46(3)(a)** (with arts. 1(3), 3)
- F38** Word in s. 17A(4)(b) substituted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 46(3)(b)** (with arts. 1(3), 3)
- F39** Words in s. 17A(5)(b) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 2 para. 1(b)**; [S.I. 2013/983](#), art. 3(1)(b)(i)
- F40** Words in s. 17A(5)(b) repealed (6.4.2003) by [2002 c. 21](#), ss. 60, 61, [Sch. 6](#); [S.I. 2003/962](#), **art. 2(3)(e)** [Sch. 1](#) (subject to savings and transitional provisions in arts. 3, 4)
- F41** Words in s. 17A(5)(b) substituted (27.10.2008) by [Welfare Reform Act 2007 \(c. 5\)](#), ss. 28, 70, **Sch. 3 para. 6(3)**; [S.I. 2008/787](#), **art. 2(4)(f)**
- F42** Words in s. 17A(6) omitted (1.4.2015) by virtue of [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 46(4)(a)** (with arts. 1(3), 3)
- F43** Words in s. 17A(6) omitted (1.4.2015) by virtue of [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 46(4)(b)** (with arts. 1(3), 3)

**F45 17B Vouchers for persons with parental responsibility for disabled children [F44: Wales].**

.....

- Textual Amendments**
- F44** Word in s. 17B heading inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 47(2)** (with arts. 1(3), 3)
  - F45** S. 17B omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **65**

**18 Day care for pre-school and other children.**

- (1) Every local authority shall provide such day care for children in need within their area who are—
  - (a) aged five or under; and
  - (b) not yet attending schools,
 as is appropriate.

<sup>F46</sup>(2) .....

- (3) A local authority may provide facilities (including training, advice, guidance and counselling) for those—
  - (a) caring for children in day care; or
  - (b) who at any time accompany such children while they are in day care.
- (4) In this section “day care” means any form of care or supervised activity provided for children during the day (whether or not it is provided on a regular basis).

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- (5) Every local authority shall provide for children in need within their area who are attending any school such care or supervised activities as is appropriate—
- (a) outside school hours; or
  - (b) during school holidays.

<sup>F47</sup>(6) .....

- (7) In this section “supervised activity” means an activity supervised by a responsible person.

#### Textual Amendments

**F46** S. 18(2) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **66(a)**

**F47** S. 18(6) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **66(b)**

#### Commencement Information

**I2** S. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

### <sup>F48</sup> 19 Review of provision for day care, child minding etc.

- [ Every local authority in England and Wales shall review—
- <sup>F49</sup>(1) (a) the provision which they make under section 18;
- (b) the extent to which the services of child minders are available within their area with respect to children under the age of eight; and
- (c) the provision for day care within their area made for children under the age of eight by persons other, than the authority, required to register under [<sup>F50</sup>Part XA].
- (2) A review under subsection (1) shall be conducted—
- (a) together with the appropriate local education authority; and
  - (b) at least once in every review period.]

(3) Every local authority in Scotland shall, at least once in every review period, review—

    - (a) the provision for day care within their area made for children under the age of eight by the local authority and by persons required to register under section 71(1)(b); and
    - (b) the extent to which the services of child minders are available within their area with respect to children under the age of eight.

(4) In conducting any such review, [<sup>F51</sup>the two authorities or, in Scotland,]the authority shall have regard to the provision made with respect to children under the age of eight in relevant establishments within their area.

(5) In this section—

    - <sup>F52</sup>“relevant establishment” means—
    - (a) in relation to Scotland, any establishment which is mentioned in paragraphs 3 and 4 of Schedule 9 (establishments exempt from the registration requirements which apply in relation to the provision of day care in Scotland); and

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- (b) in relation to England and Wales, any establishment which is mentioned in paragraphs 1 and 2 of Schedule 9A (establishments exempt from the registration requirements which apply in relation to the provision of day care in England and Wales);]
- “ review period ” means the period of one year beginning with the commencement of this section and each subsequent period of three years beginning with an anniversary of that commencement.
- (6) Where a local authority have conducted a review under this section they shall publish the result of the review—
- (a) as soon as is reasonably practicable;
  - (b) in such form as they consider appropriate; and
  - (c) together with any proposals they may have with respect to the matters reviewed.
- (7) The authorities conducting any review under this section shall have regard to—
- (a) any representations made to any one of them by any relevant [<sup>F53</sup>Health Authority, Special Health Authority][<sup>F54</sup>, Primary Care Trust]or health board; and
  - (b) any other representations which they consider to be relevant.
- (8) In the application of this section to Scotland, “day care” has the same meaning as in section 79 and “health board” has the same meaning as in the <sup>M1</sup> National Health Service (Scotland) Act 1978. ]

#### Textual Amendments

- F48** S. 19 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)
- F49** S. 19(1)(2) repealed (1.10.2002 for E. and 31.3.2003 for W.) by 2002 c. 32, ss. 149, 215(2), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 5, **Sch. Pt. 2**
- F50** Words in s. 19(1)(c) substituted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(2)(a)**; S.I. 2001/2041, **art. 2(d)(ii)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(d)** (subject to art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F51** In s. 19(4) words repealed (1.10.2002 for E. and 31.3.2003 for W.) by 2002 c. 32, s. 215(2), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 5, **Sch. Pt. 2**
- F52** S. 19(5): definition of “relevant establishment” substituted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(2)(b)**; S.I. 2001/2041, **art. 2(d)(ii)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(d)** (subject to art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F53** Words in s. 19(7)(a) substituted (1.4.1996) by 1995 c. 17, ss. 1(2), 2(1)(3), **Sch. 1**, Pt. III, para. 118(2)(with Sch. 2 para. 6)
- F54** Words in s. 19(7)(a) inserted (E.W.) (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(2)**

#### Commencement Information

- I3** S. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

- M1** 1978 c. 29.



*Provision of accommodation for children*

**20 Provision of accommodation for children: general.**

- (1) Every local authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of—
  - (a) there being no person who has parental responsibility for him;
  - (b) his being lost or having been abandoned; or
  - (c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.
- (2) Where a local authority provide accommodation under subsection (1) for a child who is ordinarily resident in the area of another local authority, that other local authority may take over the provision of accommodation for the child within—
  - (a) three months of being notified in writing that the child is being provided with accommodation; or
  - (b) such other longer period as may be prescribed [<sup>F55</sup>in regulations made by the Secretary of State].
- [<sup>F56</sup>(2A) Where a local authority in Wales provide accommodation under section 76(1) of the Social Services and Well-being (Wales) Act 2014 (accommodation for children without parents or who are lost or abandoned etc. ) for a child who is ordinarily resident in the area of a local authority in England, that local authority in England may take over the provision of accommodation for the child within—
  - (a) three months of being notified in writing that the child is being provided with accommodation; or
  - (b) such other longer period as may be prescribed in regulations made by the Secretary of State.]
- (3) Every local authority shall provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide him with accommodation.
- (4) A local authority may provide accommodation for any child within their area (even though a person who has parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote the child's welfare.
- (5) A local authority may provide accommodation for any person who has reached the age of sixteen but is under twenty-one in any community home which takes children who have reached the age of sixteen if they consider that to do so would safeguard or promote his welfare.
- (6) Before providing accommodation under this section, a local authority shall, so far as is reasonably practicable and consistent with the child's welfare—
  - (a) ascertain the child's wishes [<sup>F57</sup>and feelings] regarding the provision of accommodation; and
  - (b) give due consideration (having regard to his age and understanding) to such wishes [<sup>F57</sup>and feelings] of the child as they have been able to ascertain.
- (7) A local authority may not provide accommodation under this section for any child if any person who—

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- (a) has parental responsibility for him; and
  - (b) is willing and able to—
    - (i) provide accommodation for him; or
    - (ii) arrange for accommodation to be provided for him, objects.
- (8) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the local authority under this section.
- (9) Subsections (7) and (8) do not apply while any person—
- [<sup>F58</sup>(a) who is named in a child arrangements order as a person with whom the child is to live;]
  - [<sup>F59</sup>(aa) who is a special guardian of the child; or]
  - (b) who has care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children, agrees to the child being looked after in accommodation provided by or on behalf of the local authority.
- (10) Where there is more than one such person as is mentioned in subsection (9), all of them must agree.
- (11) Subsections (7) and (8) do not apply where a child who has reached the age of sixteen agrees to being provided with accommodation under this section.

#### Textual Amendments

- F55** Words in s. 20(2)(b) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **67(a)**
- F56** S. 20(2A) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **67(b)**
- F57** Words in s. 20(6)(a)(b) inserted (1.3.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), s. **53(2)**; [S.I. 2005/394](#), **art. 2(1)(g)**; [S.I. 2006/885](#), **art. 2(2)**
- F58** S. 20(9)(a) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 2 para. 28**; [S.I. 2014/889](#), **art. 4(f)** (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)
- F59** S. 20(9)(aa) inserted (30.12.2005) by [2002 c. 38](#), ss. 139, 148, **Sch. 3 para. 59** (with [Sch. 4 paras. 6-8](#)); [S.I. 2003/2213](#), **art. 2(o)**

#### Modifications etc. (not altering text)

- C5** S. 20(8) restricted (30.12.2005) by [2002 c. 38](#), ss. 30(6), 148 (subject to ss. 31-33) (with [Sch. 4 paras. 6-8](#)); [S.I. 2005/2213](#), **art. 2(c)**

#### Commencement Information

- I4** S. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

## 21 Provision of accommodation for children in police protection or detention or on remand, etc.

- (1) Every local authority shall make provision for the reception and accommodation of children who are removed or kept away from home under Part V.
- (2) Every local authority shall receive, and provide accommodation for, children—

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- (a) in police protection whom they are requested to receive under section 46(3)(f);
- (b) whom they are requested to receive under section 38(6) of the <sup>M2</sup>Police and Criminal Evidence Act 1984;
- (c) who are—
  - <sup>F60</sup>(i) . . . . .
  - <sup>F61</sup>(ia) remanded to accommodation provided by or on behalf of a local authority by virtue of <sup>F62</sup>paragraph 5 of Schedule 4 or paragraph 7 of Schedule 5 to the Sentencing Code] (breach etc. of referral orders and reparation orders); ]
  - <sup>F63</sup>(ii) remanded to accommodation provided by or on behalf of a local authority by virtue of <sup>F64</sup>paragraph 25 of Schedule 7 to that Code] (breach etc. of youth rehabilitation orders); <sup>F65</sup> . . . ]
  - <sup>F66</sup>(iia) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 10 of the Schedule to the Street Offences Act 1959 (breach of orders under section 1(2A) of that Act);]
  - <sup>F67</sup>(iii) the subject of a youth rehabilitation order imposing a local authority residence requirement or a youth rehabilitation order with fostering.] and with respect to whom they are the designated authority.

<sup>F68</sup>(2A) In subsection (2)(c)(iii)—

“local authority residence requirement” has the meaning given by paragraph 24 of Schedule 6 to the Sentencing Code;

“youth rehabilitation order” has the meaning given by section 173 of that Code;

“youth rehabilitation order with fostering” has the meaning given by section 176 of that Code.]

(3) Where a child has been—

(a) removed under Part V; or

(b) detained under section 38 of the Police and Criminal Evidence Act 1984,

and he is not being provided with accommodation by a local authority <sup>F69</sup>or by a local authority in Wales] or in a hospital vested in the<sup>F70</sup>Secretary of State or]<sup>F71</sup>, the Welsh Ministers]<sup>F72</sup> . . . ,<sup>F73</sup>or otherwise made available pursuant to arrangements made by <sup>F74</sup>the Secretary of State, the National Health Service Commissioning Board or a clinical commissioning group under the National Health Service Act 2006 or] a <sup>F75</sup>Health Authority]]<sup>F76</sup>Local Health Board]<sup>F72</sup> . . . , any reasonable expenses of accommodating him shall be recoverable from the local authority <sup>F77</sup>, or local authority in Wales,] in whose area he is ordinarily resident.

#### Textual Amendments

- F60** S. 21(2)(c)(i) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 12 para. 24](#); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))
- F61** S. 21(2)(c)(ia) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 105](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(v\)](#)
- F62** Words in s. 21(2)(c)(ia) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 108\(2\)\(a\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F63** S. 21(2)(c)(ii)(iii) substituted (30.11.2009) for s. 21(2)(c)(ii) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 34\(2\)\(b\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(v\)](#)

*Status: Point in time view as at 06/04/2022.*

*Changes to legislation: Children Act 1989, Part III is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F64** Words in s. 21(2)(c)(ii) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 108(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F65** Word in s. 21(2)(c)(ii) repealed (1.4.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(1)(2), 116(1), Sch. 7 para. 21, **Sch. 8 Pt. 2**; S.I. 2010/507, **art. 5(v)(x)**
- F66** S. 21(2)(c)(ia) inserted (1.4.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(1), 116(1), **Sch. 7 para. 21**; S.I. 2010/507, **art. 5(v)**
- F67** S. 21(2)(c)(ii)(iii) substituted (30.11.2009) for s. 21(2)(c)(ii) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 34(2)(b)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(v)**
- F68** S. 21(2A) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 108(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F69** Words in s. 21(3) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **68(a)**
- F70** Words in s. 21(3) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 48(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F71** Words in s. 21(3) inserted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 5**
- F72** Words in s. 21(3) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 48(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F73** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 36(1)**
- F74** Words in s. 21(3) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 48(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F75** Words in s. 21(3) substituted (1.4.1996) by 1995 c. 17, ss. 1(2), 2(1)(3), **Sch. 1**, Pt. III, para. 118(3) (with Sch. 2 para. 6)
- F76** Words in s. 21(3) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), **arts. 2, 3** {Sch. para. 20(2)(a)}
- F77** Words in s. 21(3) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **68(b)**

#### Commencement Information

- I5** S. 21 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

- M2** 1984 c. 60.

### *Duties of local authorities in relation to children looked after by them*

## 22 General duty of local authority in relation to children looked after by them.

- (1) [<sup>F78</sup>In this section], any reference to a child who is looked after by a local authority is a reference to a child who is—
- (a) in their care; or
  - (b) provided with accommodation by the authority in the exercise of any functions (in particular those under this Act) which [<sup>F79</sup>are social services functions within the meaning of] the <sup>M3</sup>Local Authority Social Services Act 1970 [<sup>F80</sup>, apart from functions under sections [<sup>F81</sup>17] 23B and 24B].
- (2) In subsection (1) “accommodation” means accommodation which is provided for a continuous period of more than 24 hours.
- (3) It shall be the duty of a local authority looking after any child—
- (a) to safeguard and promote his welfare; and

- (b) to make such use of services available for children cared for by their own parents as appears to the authority reasonable in his case.
- [<sup>F82</sup>(3A) The duty of a local authority under subsection (3)(a) to safeguard and promote the welfare of a child looked after by them includes in particular a duty to promote the child's educational achievement.]
- [<sup>F83</sup>(3B) A local authority <sup>F84</sup>... must appoint at least one person for the purpose of discharging the duty imposed by virtue of subsection (3A).
- (3C) A person appointed by a local authority under subsection (3B) must be an officer employed by that authority or another local authority <sup>F85</sup>.... ]
- (4) Before making any decision with respect to a child whom they are looking after, or proposing to look after, a local authority shall, so far as is reasonably practicable, ascertain the wishes and feelings of—
- (a) the child;
  - (b) his parents;
  - (c) any person who is not a parent of his but who has parental responsibility for him; and
  - (d) any other person whose wishes and feelings the authority consider to be relevant,
- regarding the matter to be decided.
- (5) In making any such decision a local authority shall give due consideration—
- (a) having regard to his age and understanding, to such wishes and feelings of the child as they have been able to ascertain;
  - (b) to such wishes and feelings of any person mentioned in subsection (4)(b) to (d) as they have been able to ascertain; and
  - (c) to the child's religious persuasion, racial origin and cultural and linguistic background.
- (6) If it appears to a local authority that it is necessary, for the purpose of protecting members of the public from serious injury, to exercise their powers with respect to a child whom they are looking after in a manner which may not be consistent with their duties under this section, they may do so.
- (7) If the [<sup>F86</sup>Secretary of State] considers it necessary, for the purpose of protecting members of the public from serious injury, to give directions to a local authority with respect to the exercise of their powers with respect to a child whom they are looking after, [<sup>F87</sup>the [<sup>F86</sup>Secretary of State]] may give such directions to [<sup>F88</sup>the authority].
- (8) Where any such directions are given to an authority they shall comply with them even though doing so is inconsistent with their duties under this section.

#### Textual Amendments

- F78** Words in s. 22(1) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **69(a)**
- F79** Words in s. 22(1)(b) substituted (26.10.2000 for E. and otherwise 28.7.2001) by 2000 c. 22, ss. 107, 108(4), **Sch. 5 para. 19**; S.I. 2000/2849, **art. 2(f)**
- F80** Words in s. 22(1)(b) inserted (1.10.2001) by 2000 c. 35, **s. 2(2)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**
- F81** Word in s. 22(1) inserted (7.11.2002) by 2002 c. 38, **ss. 116, 148** (with **Sch. 4** paras. 6-8)

*Status: Point in time view as at 06/04/2022.*

*Changes to legislation: Children Act 1989, Part III is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F82** S. 22(3A) inserted (1.7.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 52; S.I. 2005/394, art. 2(3)(b); S.I. 2006/885, art. 2(2)
- F83** S. 22(3B)(3C) inserted (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 99, 139(6); S.I. 2014/889, art. 5(e)
- F84** Words in s. 22(3B) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 69(b)
- F85** Words in s. 22(3C) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 69(c)
- F86** Words in s. 22(7) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 69(d)(i)
- F87** Words in s. 22(7) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, Sch. 3 para. 6(b)
- F88** Words in s. 22(7) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 69(d)(ii)

#### Modifications etc. (not altering text)

- C6** S. 22 applied (1.10.1992) by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 23(13)(a) (as substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 60(1); S.I. 1992/333, art. 2(2), Sch. 2.
- C7** S. 22(4)(b)-(d)(5)(b): power to apply with modifications or exclude conferred (7.2.2004 for W. and 7.12.2004 for E.) by 2002 c. 38, ss. 53(1)(2), 148 (with Sch. 4 paras. 6-8); S.I. 2004/252, art. 2(b); S.I. 2004/3203, art. 2(1)(h)
- C8** S. 22(4)(b) excluded (30.12.2005) (E.) by The Adoption Agencies Regulations 2005 (S.I. 2005/389), art. 45(2)(a)  
S. 22(4)(b) excluded (30.12.2005) (W.) by The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), art. 46(2)(a)
- C9** S. 22(4)(c) modified (30.12.2005) (E.) by The Adoption Agencies Regulations 2005 (S.I. 2005/389), art. 45(2)(b)  
S. 22(4)(c) applied (with modifications) (30.12.2005) (W.) by The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), art. 46(2)(b)
- C10** S. 22(5)(b) modified (30.12.2005) (E.) by The Adoption Agencies Regulations 2005 (S.I. 2005/389), art. 45(2)(c)  
S. 22(5)(b) applied (with modifications) (30.12.2005) (W.) by The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), art. 46(2)(c)

#### Commencement Information

- I6** S. 22 wholly in force at 14.10.1991 see 108(2)(3) and S.I. 1991/828, art. 3(2)

#### Marginal Citations

- M3** 1970 c. 42.

### **F89<sup>23</sup> Provision of accommodation and maintenance by local authority for children whom they are looking after.**

.....

#### Textual Amendments

- F89** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E. ) for s. 23 by Children and Young Persons Act 2008 (c. 23), ss. 8(1), 44; S.I. 2009/2273, art. 2(2)(a); S.I. 2010/1329, art. 2(a); S.I. 2010/2981, art. 4(a)

*Status: Point in time view as at 06/04/2022.*

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**F91** **Provision of accommodation for children in care**

**22A**

When a child is in the care of a local authority, it is their duty to provide the child with accommodation.

**Textual Amendments**

**F90** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1), 44**; [S.I. 2009/2273](#), **art. 2(2)(a)**; [S.I. 2010/1329](#), **art. 2(a)**; [S.I. 2010/2981](#), **art. 4(a)**

**F91** Ss. 22A-22F substituted for s. 23 (1.9.2009 for E. for the insertion of ss. 22C(11), 22F, 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 for E. so far as not already in force, 6.4.2016 for W. in so far as not already in force) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1), 44(4)**; [S.I. 2009/2273](#), **art. 2(2)(a)**; [S.I. 2010/1329](#), **art. 2(a)**; [S.I. 2010/2981](#), **art. 4(a)**; [S.I. 2016/452](#), **art. 2(a)**

**F91** **22B Maintenance of looked after children**

It is the duty of a local authority to maintain a child they are looking after in other respects apart from the provision of accommodation.

**Textual Amendments**

**F90** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1), 44**; [S.I. 2009/2273](#), **art. 2(2)(a)**; [S.I. 2010/1329](#), **art. 2(a)**; [S.I. 2010/2981](#), **art. 4(a)**

**F91** Ss. 22A-22F substituted for s. 23 (1.9.2009 for E. for the insertion of ss. 22C(11), 22F, 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 for E. so far as not already in force, 6.4.2016 for W. in so far as not already in force) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1), 44(4)**; [S.I. 2009/2273](#), **art. 2(2)(a)**; [S.I. 2010/1329](#), **art. 2(a)**; [S.I. 2010/2981](#), **art. 4(a)**; [S.I. 2016/452](#), **art. 2(a)**

**F91** **22C Ways in which looked after children are to be accommodated and maintained**

- (1) This section applies where a local authority are looking after a child (“C”).
- (2) The local authority must make arrangements for C to live with a person who falls within subsection (3) (but subject to subsection (4)).
- (3) A person (“P”) falls within this subsection if—
  - (a) P is a parent of C;
  - (b) P is not a parent of C but has parental responsibility for C; or
  - (c) in a case where C is in the care of the local authority and there was [F92a child arrangements order] in force with respect to C immediately before the care order was made, P was a person [F93named in the child arrangements order as a person with whom C was to live].
- (4) Subsection (2) does not require the local authority to make arrangements of the kind mentioned in that subsection if doing so—
  - (a) would not be consistent with C's welfare; or
  - (b) would not be reasonably practicable.

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- (5) If the local authority are unable to make arrangements under subsection (2), they must place C in the placement which is, in their opinion, the most appropriate placement available.
- (6) In subsection (5) “ placement ” means—
- (a) placement with an individual who is a relative, friend or other person connected with C and who is also a local authority foster parent;
  - (b) placement with a local authority foster parent who does not fall within paragraph (a);
  - (c) placement in a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000 [<sup>F94</sup>or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)]; or
  - (d) subject to section 22D, placement in accordance with other arrangements which comply with any regulations made for the purposes of this section.
- (7) In determining the most appropriate placement for C, the local authority must, subject to [<sup>F95</sup>subsection (9B) and] the other provisions of this Part (in particular, to their duties under section 22)—
- (a) give preference to a placement falling within paragraph (a) of subsection (6) over placements falling within the other paragraphs of that subsection;
  - (b) comply, so far as is reasonably practicable in all the circumstances of C's case, with the requirements of subsection (8); and
  - (c) comply with subsection (9) unless that is not reasonably practicable.
- (8) The local authority must ensure that the placement is such that—
- (a) it allows C to live near C's home;
  - (b) it does not disrupt C's education or training;
  - (c) if C has a sibling for whom the local authority are also providing accommodation, it enables C and the sibling to live together;
  - (d) if C is disabled, the accommodation provided is suitable to C's particular needs.
- (9) The placement must be such that C is provided with accommodation within the local authority's area.
- [ Subsection (9B) applies (subject to subsection (9C)) where the local authority <sup>F97</sup> ...—
- <sup>F96</sup>(9A)
  - (a) are considering adoption for C, or
  - (b) are satisfied that C ought to be placed for adoption but are not authorised under section 19 of the Adoption and Children Act 2002 (placement with parental consent) or by virtue of section 21 of that Act (placement orders) to place C for adoption.
- (9B) Where this subsection applies—
- (a) subsections (7) to (9) do not apply to the local authority,
  - (b) the local authority must consider placing C with an individual within subsection (6)(a), and
  - (c) where the local authority decide that a placement with such an individual is not the most appropriate placement for C, the local authority must consider placing C with a local authority foster parent who has been approved as a prospective adopter.



*Status: Point in time view as at 06/04/2022.*

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(9C) Subsection (9B) does not apply where the local authority have applied for a placement order under section 21 of the Adoption and Children Act 2002 in respect of C and the application has been refused.]

(10) The local authority may determine—

- (a) the terms of any arrangements they make under subsection (2) in relation to C (including terms as to payment); and
- (b) the terms on which they place C with a local authority foster parent (including terms as to payment but subject to any order made under section 49 of the Children Act 2004).

(11) The [<sup>F98</sup>Secretary of State] may make regulations for, and in connection with, the purposes of this section.

[<sup>F99</sup>(12) For the meaning of “local authority foster parent” see section 105(1).]

#### Textual Amendments

- F91** Ss. 22A-22F substituted for s. 23 (1.9.2009 for E. for the insertion of ss. 22C(11), 22F, 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 for E. so far as not already in force, 6.4.2016 for W. in so far as not already in force) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44(4); S.I. 2009/2273, **art. 2(2)(a)**; S.I. 2010/1329, **art. 2(a)**; S.I. 2010/2981, **art. 4(a)**; S.I. 2016/452, **art. 2(a)**
- F92** Words in s. 22C(3)(c) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 2 para. 29(a)**; S.I. 2014/889, **art. 4(f)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F93** Words in s. 22C(3)(c) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 2 para. 29(b)**; S.I. 2014/889, **art. 4(f)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F94** Words in s. 22C(6)(c) inserted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), **regs. 2(1)**, 9
- F95** Words in s. 22C(7) inserted (25.7.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 2(2)**, 139(6); S.I. 2014/889, **art. 6(b)**
- F96** S. 22C(9A)-(9C) inserted (25.7.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 2(3)**, 139(6); S.I. 2014/889, **art. 6(b)**
- F97** Words in s. 22C(9A) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), **regs. 2(1)**, **70(a)**
- F98** Words in s. 22C(11) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), **regs. 2(1)**, **70(b)**
- F99** S. 22C(12) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), **regs. 2(1)**, **70(c)**

#### Modifications etc. (not altering text)

- C11** S. 22C excluded (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Children Act 1989\) \(Children Remanded to Youth Detention Accommodation\) Regulations 2012 \(S.I. 2012/2813\)](#), **regs. 1(1)**, **2(a)** (with **reg. 3**)

#### <sup>F91</sup> 22D Review of child's case before making alternative arrangements for accommodation

- (1) Where a local authority are providing accommodation for a child (“C”) other than by arrangements under section 22C(6)(d), they must not make such arrangements for C unless they have decided to do so in consequence of a review of C's case carried out in accordance with regulations made under section 26.

*Status: Point in time view as at 06/04/2022.*

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- (2) But subsection (1) does not prevent a local authority making arrangements for C under section 22C(6)(d) if they are satisfied that in order to safeguard C's welfare it is necessary—
- (a) to make such arrangements; and
  - (b) to do so as a matter of urgency.

#### Textual Amendments

- F90** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44; [S.I. 2009/2273](#), **art. 2(2)(a)**; [S.I. 2010/1329](#), **art. 2(a)**; [S.I. 2010/2981](#), **art. 4(a)**
- F91** Ss. 22A-22F substituted for s. 23 (1.9.2009 for E. for the insertion of ss. 22C(11), 22F, 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 for E. so far as not already in force, 6.4.2016 for W. in so far as not already in force) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44(4); [S.I. 2009/2273](#), **art. 2(2)(a)**; [S.I. 2010/1329](#), **art. 2(a)**; [S.I. 2010/2981](#), **art. 4(a)**; [S.I. 2016/452](#), **art. 2(a)**

#### Modifications etc. (not altering text)

- C12** S. 22D excluded (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Children Act 1989\) \(Children Remanded to Youth Detention Accommodation\) Regulations 2012 \(S.I. 2012/2813\)](#), **regs. 1(1)**, **2(b)**

### [<sup>F100</sup>22E. Children's homes provided by Secretary of State or Welsh Ministers

Where a local authority place a child they are looking after in a children's home provided, equipped and maintained by the Secretary of State or the Welsh Ministers under section 82(5), they must do so on such terms as the Secretary of State or the Welsh Ministers (as the case may be) may from time to time determine.]

#### Textual Amendments

- F90** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44; [S.I. 2009/2273](#), **art. 2(2)(a)**; [S.I. 2010/1329](#), **art. 2(a)**; [S.I. 2010/2981](#), **art. 4(a)**
- F100** S. 22E substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), **regs. 2(1)**, **71**

### <sup>F91</sup> 22F Regulations as to children looked after by local authorities

Part 2 of Schedule 2 has effect for the purposes of making further provision as to children looked after by local authorities and in particular as to the regulations which may be made under section 22C(11).]

#### Textual Amendments

- F90** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44; [S.I. 2009/2273](#), **art. 2(2)(a)**; [S.I. 2010/1329](#), **art. 2(a)**; [S.I. 2010/2981](#), **art. 4(a)**
- F91** Ss. 22A-22F substituted for s. 23 (1.9.2009 for E. for the insertion of ss. 22C(11), 22F, 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 for E. so far as not already in force, 6.4.2016 for W.

*Status: Point in time view as at 06/04/2022.*

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in so far as not already in force) by Children and Young Persons Act 2008 (c. 23), ss. 8(1), 44(4); S.I. 2009/2273, art. 2(2)(a); S.I. 2010/1329, art. 2(a); S.I. 2010/2981, art. 4(a); S.I. 2016/452, art. 2(a)

## [<sup>F101</sup>22G General duty of local authority to secure sufficient accommodation for looked after children

- (1) It is the general duty of a local authority to take steps that secure, so far as reasonably practicable, the outcome in subsection (2).
- (2) The outcome is that the local authority are able to provide the children mentioned in subsection (3) with accommodation that—
  - (a) is within the authority's area; and
  - (b) meets the needs of those children.
- (3) The children referred to in subsection (2) are those—
  - (a) that the local authority are looking after,
  - (b) in respect of whom the authority are unable to make arrangements under section 22C(2), and
  - (c) whose circumstances are such that it would be consistent with their welfare for them to be provided with accommodation that is in the authority's area.
- (4) In taking steps to secure the outcome in subsection (2), the local authority must have regard to the benefit of having—
  - (a) a number of accommodation providers in their area that is, in their opinion, sufficient to secure that outcome; and
  - (b) a range of accommodation in their area capable of meeting different needs that is, in their opinion, sufficient to secure that outcome.
- (5) In this section “ accommodation providers ” means—  
local authority foster parents; and  
children's homes in respect of which a person is registered under Part 2 of the Care Standards Act 2000.]

### Textual Amendments

**F101** S. 22G inserted (1.4.2011 for E.) by Children and Young Persons Act 2008 (c. 23), ss. 9, 44; S.I. 2010/2981, art. 4(b)

[<sup>F102</sup>*Educational achievement of previously looked after children*

### Textual Amendments

**F102** S. 23ZZA and cross-heading inserted (1.9.2018) by Children and Social Work Act 2017 (c. 16), ss. 4, 70(2); S.I. 2018/497, reg. 4(a)

## 23ZZA Information and advice for promoting educational achievement

- (1) A local authority in England must make advice and information available in accordance with this section for the purpose of promoting the educational achievement of each relevant child educated in their area.

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- (2) The advice and information must be made available to—
- (a) any person who has parental responsibility for the child,
  - (b) the member of staff at the child's school designated under section 20A of the Children and Young Persons Act 2008 or by virtue of section 2E of the Academies Act 2010, and
  - (c) any other person that the local authority consider appropriate.
- (3) A local authority in England may do anything else that they consider appropriate with a view to promoting the educational achievement of relevant children educated in their area.
- (4) A local authority in England must appoint at least one person for the purpose of discharging the duty imposed by subsection (1).
- (5) The person appointed for that purpose must be an officer employed by the authority or another local authority in England.
- (6) In this section—
- “relevant child” means—
- (a) a child who was looked after by the local authority or another local authority in England or Wales but ceased to be so looked after as a result of—
    - (i) a child arrangements order which includes arrangements relating to with whom the child is to live, or when the child is to live with any person,
    - (ii) a special guardianship order, or
    - (iii) an adoption order within the meaning given by section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002, or
  - (b) a child who appears to the local authority—
    - (i) to have been in state care in a place outside England and Wales because he or she would not otherwise have been cared for adequately, and
    - (ii) to have ceased to be in that state care as a result of being adopted.
- (7) For the purposes of this section a child is educated in a local authority's area if—
- (a) the child is receiving early years provision secured by the local authority under section 7(1) of the Childcare Act 2006, or
  - (b) the child is of compulsory school age and—
    - (i) the child attends a school in the local authority's area, or
    - (ii) if the child does not attend school, the child receives all or most of his or her education in the local authority's area.
- (8) For the purposes of this section a child is in “state care” if he or she is in the care of, or accommodated by—
- (a) a public authority,
  - (b) a religious organisation, or
  - (c) any other organisation the sole or main purpose of which is to benefit society.]

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## <sup>F103</sup> Visiting

### Textual Amendments

**F103** S. 23ZA and cross-heading inserted (1.9.2009 and 15.11.2010 for certain purposes for E., 26.4.2010 for certain purposes for W., 28.3.2011 for W. otherwise, 1.4.2011 for E. otherwise) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 15, 44**; [S.I. 2009/2273](#), **art. 2(2)(d)**; [S.I. 2010/1326](#), **art. 2(d)**; [S.I. 2010/2714](#), **art. 2(d)**; [S.I. 2010/2981](#), **art. 4(d)** (with [art. 5](#)); [S.I. 2011/949](#), **art. 3(1)(a)**

### **23ZA Duty of local authority to ensure visits to, and contact with, looked after children and others**

- (1) This section applies to—
  - (a) a child looked after by a local authority;
  - (b) a child who was looked after by a local authority but who has ceased to be looked after by them as a result of prescribed circumstances.
- (2) It is the duty of the local authority—
  - (a) to ensure that a person to whom this section applies is visited by a representative of the authority (“a representative”);
  - (b) to arrange for appropriate advice, support and assistance to be available to a person to whom this section applies who seeks it from them.
- (3) The duties imposed by subsection (2)—
  - (a) are to be discharged in accordance with any regulations made for the purposes of this section by the <sup>F104</sup>Secretary of State;
  - (b) are subject to any requirement imposed by or under an enactment applicable to the place in which the person to whom this section applies is accommodated.
- (4) Regulations under this section for the purposes of subsection (3)(a) may make provision about—
  - (a) the frequency of visits;
  - (b) circumstances in which a person to whom this section applies must be visited by a representative; and
  - (c) the functions of a representative.
- (5) In choosing a representative a local authority must satisfy themselves that the person chosen has the necessary skills and experience to perform the functions of a representative.

### Textual Amendments

**F104** Words in s. 23ZA(3)(a) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), **regs. 2(1), 72**

### <sup>F105</sup> **Independent visitors for children looked after by a local authority**

- 23ZB** (1) A local authority looking after a child must appoint an independent person to be the child's visitor if—

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- (a) the child falls within a description prescribed in regulations made by the [<sup>F106</sup>Secretary of State]; or
  - (b) in any other case, it appears to them that it would be in the child's interests to do so.
- (2) A person appointed under this section must visit, befriend and advise the child.
- (3) A person appointed under this section is entitled to recover from the appointing authority any reasonable expenses incurred by that person for the purposes of that person's functions under this section.
- (4) A person's appointment as a visitor in pursuance of this section comes to an end if—
- (a) the child ceases to be looked after by the local authority;
  - (b) the person resigns the appointment by giving notice in writing to the appointing authority; or
  - (c) the authority give him notice in writing that they have terminated it.
- (5) The ending of such an appointment does not affect any duty under this section to make a further appointment.
- (6) Where a local authority propose to appoint a visitor for a child under this section, the appointment shall not be made if—
- (a) the child objects to it; and
  - (b) the authority are satisfied that the child has sufficient understanding to make an informed decision.
- (7) Where a visitor has been appointed for a child under this section, the local authority shall terminate the appointment if—
- (a) the child objects to its continuing; and
  - (b) the authority are satisfied that the child has sufficient understanding to make an informed decision.
- (8) If the local authority give effect to a child's objection under subsection (6) or (7) and the objection is to having anyone as the child's visitor, the authority does not have to propose to appoint another person under subsection (1) until the objection is withdrawn.
- (9) The [<sup>F107</sup>Secretary of State] may make regulations as to the circumstances in which a person is to be regarded for the purposes of this section as independent of the appointing authority.]]

#### Textual Amendments

**F105** S. 23ZB inserted (1.9.2009 for E. for specified purposes, 26.4.2010 for W. for specified purposes, 1.4.2011 for E. so far as not already in force, 6.4.2016 for W. in so far as not already in force) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. **16(1)**, 44(4); S.I. 2009/2273, art. 2(2)(e); S.I. 2010/1329, art. 2(e); S.I. 2010/2981, art. 4(e); S.I. 2016/452, art. 2(d)

**F106** Words in s. 23ZB(1)(a) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **73(a)**

**F107** Words in s. 23ZB(9) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **73(b)**

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*Advice and assistance for certain children [F108 and young persons]*

**Textual Amendments**

**F108** Words in heading before s. 24 inserted (1.10.2001) by 2000 c. 35, ss. 2(3); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

**[F109]23A The responsible authority and relevant children.**

- (1) The responsible local authority shall have the functions set out in section 23B in respect of a relevant child.
- (2) In subsection (1) “relevant child” means (subject to subsection (3)) a child who—
  - (a) is not being looked after [F110] by any local authority in England or by any local authority in Wales;
  - (b) was, before last ceasing to be looked after, an eligible child for the purposes of paragraph 19B of Schedule 2; and
  - (c) is aged sixteen or seventeen.
- (3) The [F111] Secretary of State] may prescribe—
  - (a) additional categories of relevant children; and
  - (b) categories of children who are not to be relevant children despite falling within subsection (2).
- (4) In subsection (1) the “responsible local authority” is the one which last looked after the child.
- (5) If under subsection (3)(a) the [F112] Secretary of State] prescribes a category of relevant children which includes children who do not fall within subsection (2)(b) (for example, because they were being looked after by a local authority in Scotland), [F113] the [F112] Secretary of State]] may in the regulations also provide for which local authority is to be the responsible local authority for those children.]

**Textual Amendments**

**F109** Ss. 23A, 23B, 23C inserted (1.10.2001) by 2000 c. 35, s. 2(4); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

**F110** Words in s. 23A(2)(a) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 74(a)

**F111** Words in s. 23A(3) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 74(b)

**F112** Words in s. 23A(5) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 74(c)

**F113** Words in s. 23A(5) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, Sch. 3 para. 8(3)(b)

**Modifications etc. (not altering text)**

**C13** S. 23A(2) modified (W.) (1.10.2001) by S.I. 2001/2189, reg. 4(4)(5) (as amended (1.8.2002) by S.I. 2002/1855, reg. 2(b)(i))

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**[<sup>F114</sup>23B Additional functions of the responsible authority in respect of relevant children.**

- (1) It is the duty of each local authority to take reasonable steps to keep in touch with a relevant child for whom they are the responsible authority, whether he is within their area or not.
- (2) It is the duty of each local authority to appoint a personal adviser for each relevant child (if they have not already done so under paragraph 19C of Schedule 2).
- (3) It is the duty of each local authority, in relation to any relevant child who does not already have a pathway plan prepared for the purposes of paragraph 19B of Schedule 2—
  - (a) to carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for them to provide him under this Part; and
  - (b) to prepare a pathway plan for him.

<sup>F115</sup>( 4 ) .....

<sup>F115</sup>( 5 ) .....

<sup>F115</sup>( 6 ) .....

<sup>F115</sup>( 7 ) .....

- (8) The responsible local authority shall safeguard and promote the child’s welfare and, unless they are satisfied that his welfare does not require it, support him by—
  - (a) maintaining him;
  - (b) providing him with or maintaining him in suitable accommodation; and
  - (c) providing support of such other descriptions as may be prescribed.
- (9) Support under subsection (8) may be in cash.
- (10) The [<sup>F116</sup> Secretary of State ] may by regulations make provision about the meaning of “ suitable accommodation ” and in particular about the suitability of landlords or other providers of accommodation.
- (11) If the local authority have lost touch with a relevant child, despite taking reasonable steps to keep in touch, they must without delay—
  - (a) consider how to re-establish contact; and
  - (b) take reasonable steps to do so,
 and while the child is still a relevant child must continue to take such steps until they succeed.
- (12) Subsections (7) to (9) of section 17 apply in relation to support given under this section as they apply in relation to assistance given under that section.
- (13) Subsections (4) and (5) of section 22 apply in relation to any decision by a local authority for the purposes of this section as they apply in relation to the decisions referred to in that section.]

**Textual Amendments**

**F114** Ss. 23A, 23B, 23C inserted (1.10.2001) by 2000 c. 35, s. 2(4); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2



**F115** S. 23B(4)-(7) repealed (1.4.2011 for E., 19.6.2012 for W.) by [Children and Young Persons Act 2008](#) (c. 23), ss. 22(1), 44, [Sch. 4](#); S.I. 2010/2981, [art. 4\(g\)\(I\)](#); S.I. 2012/1553, art. 2(a)(e)

**F116** Words in s. 23B(10) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014](#) (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), [75](#)

[<sup>F117</sup>  
23C

**Continuing functions in respect of former relevant children.**

- (1) Each local authority shall have the duties provided for in this section towards—
- (a) a person who has been a relevant child for the purposes of section 23A (and would be one if he were under eighteen), and in relation to whom they were the last responsible authority; and
  - (b) a person who was being looked after by them when he attained the age of eighteen, and immediately before ceasing to be looked after was an eligible child,
- and in this section such a person is referred to as a “ former relevant child ”.
- (2) It is the duty of the local authority to take reasonable steps—
- (a) to keep in touch with a former relevant child whether he is within their area or not; and
  - (b) if they lose touch with him, to re-establish contact.
- (3) It is the duty of the local authority—
- (a) to continue the appointment of a personal adviser for a former relevant child; and
  - (b) to continue to keep his pathway plan under regular review.
- (4) It is the duty of the local authority to give a former relevant child—
- (a) assistance of the kind referred to in section 24B(1), to the extent that his welfare requires it;
  - (b) assistance of the kind referred to in section 24B(2), to the extent that his welfare and his educational or training needs require it;
  - (c) other assistance, to the extent that his welfare requires it.
- (5) The assistance given under subsection (4)(c) may be in kind or, in exceptional circumstances, in cash.

[ It is the duty of the local authority to pay the relevant amount to a former relevant  
<sup>F118</sup>(5A) child who pursues higher education in accordance with a pathway plan prepared for that person.

- (5B) The [<sup>F119</sup>Secretary of State] may by regulations—
- (a) prescribe the relevant amount for the purposes of subsection (5A);
  - (b) prescribe the meaning of “higher education” for those purposes;
  - (c) make provision as to the payment of the relevant amount;
  - (d) make provision as to the circumstances in which the relevant amount (or any part of it) may be recovered by the local authority from a former relevant child to whom a payment has been made.

(5C) The duty set out in subsection (5A) is without prejudice to that set out in subsection (4)(b).]

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- (6) Subject to subsection (7), the duties set out in subsections (2), (3) and (4) subsist until the former relevant child reaches the age of twenty-one.
- (7) If the former relevant child’s pathway plan sets out a programme of education or training which extends beyond his twenty-first birthday—
  - (a) the duty set out in subsection (4)(b) continues to subsist for so long as the former relevant child continues to pursue that programme; and
  - (b) the duties set out in subsections (2) and (3) continue to subsist concurrently with that duty.
- (8) For the purposes of subsection (7)(a) there shall be disregarded any interruption in a former relevant child’s pursuance of a programme of education or training if the local authority are satisfied that he will resume it as soon as is reasonably practicable.
- (9) Section 24B(5) applies in relation to a person being given assistance under subsection (4)(b) [<sup>F120</sup> or who is in receipt of a payment under subsection (5A)] as it applies in relation to a person to whom section 24B(3) applies.
- (10) Subsections (7) to (9) of section 17 apply in relation to assistance given under this section as they apply in relation to assistance given under that section.]

#### Textual Amendments

- F117** Ss. 23A, 23B, 23C inserted (1.10.2001) by 2000 c. 35, s. 2(4); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F118** S. 23C(5A)-(5C) inserted (12.2.2009 for certain purposes for E., 22.8.2009 otherwise for E., 26.4.2010 for certain purposes for W., 18.3.2011 otherwise for W.) by Children and Young Persons Act 2008 (c. 23), ss. 21(2), 44; S.I. 2009/268, art. 3(1)(d); S.I. 2009/2273, art. 2(1); S.I. 2010/1329, art. 2(g); S.I. 2011/824, art. 2(b)
- F119** Words in s. 23C(5B) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 76
- F120** Words in s. 23C(9) inserted (22.8.2009 for E., 18.3.2011 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 21(3), 44; S.I. 2009/2273, art. 2(1); S.I. 2011/824, art. 2(a)

#### Modifications etc. (not altering text)

- C14** S. 23C restricted (8.1.2003) by 2002 c. 41, s. 54, Sch. 3 (with s. 159); S.I. 2002/2811, art. 2, Sch.

### [<sup>F121</sup> 23CZA] Arrangements for certain former relevant children to continue to live with former foster parents

- (1) Each local authority <sup>F122</sup> ... have the duties provided for in subsection (3) in relation to a staying put arrangement.
- (2) A “staying put arrangement” is an arrangement under which—
  - (a) a person who is a former relevant child by virtue of section 23C(1)(b), and
  - (b) a person (a “former foster parent”) who was the former relevant child’s local authority foster parent immediately before the former relevant child ceased to be looked after by the local authority,
 continue to live together after the former relevant child has ceased to be looked after.
- (3) It is the duty of the local authority (in discharging the duties in section 23C(3) and by other means)—

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- (a) to monitor the staying put arrangement, and
  - (b) to provide advice, assistance and support to the former relevant child and the former foster parent with a view to maintaining the staying put arrangement.
- (4) Support provided to the former foster parent under subsection (3)(b) must include financial support.
- (5) Subsection (3)(b) does not apply if the local authority consider that the staying put arrangement is not consistent with the welfare of the former relevant child.
- (6) The duties set out in subsection (3) subsist until the former relevant child reaches the age of 21.]

#### Textual Amendments

**F121** S. 23CZA inserted (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 98(2), 139(6); S.I. 2014/889, art. 5(e)

**F122** Words in s. 23CZA(1) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 77

#### [<sup>F123</sup>23CZA] England: further advice and support

- (1) This section applies to a former relevant child if—
- (a) he or she has reached the age of 21 but not the age of 25, and
  - (b) a local authority in England had duties towards him or her under section 23C (whether or not some of those duties continue to subsist by virtue of subsection (7) of that section).
- (2) If the former relevant child informs the local authority that he or she wishes to receive advice and support under this section, the local authority has the duties provided for in subsections (3) to (6).
- (3) The local authority must provide the former relevant child with a personal adviser until the former relevant child—
- (a) reaches the age of 25, or
  - (b) if earlier, informs the local authority that he or she no longer wants a personal adviser.
- (4) The local authority must—
- (a) carry out an assessment in relation to the former relevant child under subsection (5), and
  - (b) prepare a pathway plan for the former relevant child.
- (5) An assessment under this subsection is an assessment of the needs of the former relevant child with a view to determining—
- (a) whether any services offered by the local authority (under this Act or otherwise) may assist in meeting his or her needs, and
  - (b) if so, what advice and support it would be appropriate for the local authority to provide for the purpose of helping the former relevant child to obtain those services.
- (6) The local authority must provide the former relevant child with advice and support that it would be appropriate to provide as mentioned in subsection (5)(b).

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- (7) Where a former relevant child to whom this section applies is not receiving advice and support under this section, the local authority must offer such advice and support—
- (a) as soon as possible after he or she reaches the age of 21, and
  - (b) at least once in every 12 months.
- (8) In this section “former relevant child” has the meaning given by section 23C(1).]

#### Textual Amendments

**F123** S. 23CZB inserted (1.4.2018) by [Children and Social Work Act 2017 \(c. 16\), ss. 3\(2\), 70\(2\)](#); S.I. 2018/346, reg. 4(c)

#### [<sup>F124</sup> 23CA] Further assistance to pursue education or training

- (1) This section applies to a person if—
- (a) he is under the age of twenty-five or of such lesser age as may be prescribed by the [<sup>F125</sup>Secretary of State];
  - (b) he is a former relevant child (within the meaning of section 23C) towards whom the duties imposed by subsections (2), (3) and (4) of that section no longer subsist; and
  - (c) he has informed the responsible local authority that he is pursuing, or wishes to pursue, a programme of education or training.
- [<sup>F126</sup>(2) It is the duty of the responsible local authority to provide a personal adviser for a person to whom this section applies.]
- (3) It is the duty of the responsible local authority—
- (a) to carry out an assessment of the needs of a person to whom this section applies with a view to determining what assistance (if any) it would be appropriate for them to provide to him under this section; and
  - (b) to prepare a pathway plan for him.
- (4) It is the duty of the responsible local authority to give assistance of a kind referred to subsection (5) to a person to whom this section applies to the extent that his educational or training needs require it.
- (5) The kinds of assistance are—
- (a) contributing to expenses incurred by him in living near the place where he is, or will be, receiving education or training; or
  - (b) making a grant to enable him to meet expenses connected with his education and training.
- (6) If a person to whom this section applies pursues a programme of education or training in accordance with the pathway plan prepared for him, the duties of the local authority under this section (and under any provision applicable to the pathway plan prepared under this section for that person) subsist for as long as he continues to pursue that programme.
- (7) For the purposes of subsection (6), the local authority may disregard any interruption in the person's pursuance of a programme of education or training if they are satisfied that he will resume it as soon as is reasonably practicable.

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- (8) Subsections (7) to (9) of section 17 apply to assistance given to a person under this section as they apply to assistance given to or in respect of a child under that section, but with the omission in subsection (8) of the words “and of each of his parents”.
- (9) Subsection (5) of section 24B applies to a person to whom this section applies as it applies to a person to whom subsection (3) of that section applies.
- (10) Nothing in this section affects the duty imposed by subsection (5A) of section 23C to the extent that it subsists in relation to a person to whom this section applies; but the duty to make a payment under that subsection may be taken into account in the assessment of the person's needs under subsection (3)(a).
- (11) In this section “ the responsible local authority ” means, in relation to a person to whom this section applies, the local authority which had the duties provided for in section 23C towards him. ]

#### Textual Amendments

- F124** S. 23CA inserted (1.4.2011 for E., 19.6.2012 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 22\(2\)](#), 44; S.I. 2010/2981, [art. 4\(g\)](#) (with [art. 6](#)); S.I. 2012/1553, [art. 2\(a\)](#) (with [art. 3](#))
- F125** Words in s. 23CA(1)(a) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), [regs. 2\(1\)](#), [78](#)
- F126** S. 23CA(2) substituted (1.4.2018) by [Children and Social Work Act 2017 \(c. 16\)](#), [ss. 3\(3\)](#), 70(2); S.I. 2018/346, [reg. 4\(c\)](#)

#### *[<sup>F127</sup> Personal advisers and pathway plans]*

#### Textual Amendments

- F127** Ss. 23D, 23E and cross-heading inserted (1.10.2001) by [2000 c. 35, s. 3](#); S.I. 2001/2191, [art. 2](#); S.I. 2001/2878, [art. 2](#)

#### <sup>F128</sup>23D Personal advisers.

- (1) The [<sup>F129</sup>Secretary of State] may by regulations require local authorities to appoint a personal adviser for children or young persons of a prescribed description who have reached the age of sixteen but not the age of [<sup>F130</sup>twenty-five] who are not—
  - (a) children who are relevant children for the purposes of section 23A;
  - (b) the young persons referred to in section 23C; or
  - (c) the children referred to in paragraph 19C of Schedule 2.<sup>F131</sup>; or
  - (“) persons to whom section 23CA applies.]
- (2) Personal advisers appointed under or by virtue of this Part shall (in addition to any other functions) have such functions as the [<sup>F132</sup>Secretary of State] prescribes.]
- <sup>F133</sup>(3) Where a local authority in England ceases to be under a duty to provide a personal adviser for a person under any provision of this Part, that does not affect any other duty under this Part to provide a personal adviser for the person.
- (4) Where a local authority in England has more than one duty under this Part to provide a personal adviser for a person, each duty is discharged by the provision of the same

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personal adviser (the local authority are not required to provide more than one personal adviser for the person).]

#### Textual Amendments

- F128** Ss. 23D, 23E and cross-heading inserted (1.10.2001) by 2000 c. 35, s. 3; S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F129** Words in s. 23D(1) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 79(a)
- F130** Word in s. 23D(1) substituted (1.1.2010 for E. and 26.4.2010 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 23(1)(a), 44; S.I. 2009/3354, art. 3(1); S.I. 2010/1329, art. 2(i)
- F131** S. 23D(1)(d) and word inserted (1.1.2010 for E. and 26.4.2010 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 23(1)(b), 44; S.I. 2009/3354, art. 3(1); S.I. 2010/1329, art. 2(i)
- F132** Words in s. 23D(2) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 79(b)
- F133** S. 23D(3)(4) inserted (1.4.2018) by Children and Social Work Act 2017 (c. 16), ss. 3(4), 70(2); S.I. 2018/346, reg. 4(c)

#### [<sup>F134</sup>23E Pathway plans.

- (1) In this Part, a reference to a “ pathway plan ” is to a plan setting out—
- (a) in the case of a plan prepared under paragraph 19B of Schedule 2—
- (i) the advice, assistance and support which the local authority intend to provide a child under this Part, both while they are looking after him and later; and
- (ii) when they might cease to look after him;
- [ in the case of a plan prepared under section 23CZB, the advice and support
- <sup>F135</sup>(aa) that the local authority intend to provide;] and
- (b) in the case of a plan prepared under section 23B [<sup>F136</sup>or 23CA] , the advice, assistance and support which the local authority intend to provide under this Part,
- and dealing with such other matters (if any) as may be prescribed [<sup>F137</sup>in regulations made by the Secretary of State].

[ A local authority may carry out an assessment under section 23CZB(5) of a person's

<sup>F138</sup>(1ZA) needs at the same time as any assessment of the person's needs is made under section 23CA(3).]

- [ A local authority may carry out an assessment under section 23B(3) [<sup>F140</sup>, 23CZB(5)
- <sup>F139</sup>(1A ) ] or 23CA(3) of a person's needs at the same time as any assessment of his needs is made under—
- (a) the Chronically Sick and Disabled Persons Act 1970;
- (b) Part 4 of the Education Act 1996 [<sup>F141</sup>or Part 3 of the Children and Families Act 2014] (in the case of an assessment under section 23B(3));
- [ Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act
- <sup>F142</sup>(ba) 2018;]
- (c) the Disabled Persons (Services, Consultation and Representation) Act 1986; or
- (d) any other enactment.

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- (1B) The [<sup>F143</sup>Secretary of State] may by regulations make provision as to assessments for the purposes of section 23B(3) [<sup>F144</sup>, 23CZB(5) ] or 23CA.
- (1C) Regulations under subsection (1B) may in particular make provision about—
- (a) who is to be consulted in relation to an assessment;
  - (b) the way in which an assessment is to be carried out, by whom and when;
  - (c) the recording of the results of an assessment;
  - (d) the considerations to which a local authority are to have regard in carrying out an assessment.
- (1D) A local authority shall keep each pathway plan prepared by them under section 23B [<sup>F145</sup>, 23CZB ] or 23CA under review.]
- (2) The [<sup>F146</sup>Secretary of State] may by regulations make provision about pathway plans and their review.]

#### Textual Amendments

- F134** Ss. 23D, 23E and cross-heading inserted (1.10.2001) by 2000 c. 35, s. 3; S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F135** S. 23E(1)(aa) inserted (1.4.2018) by Children and Social Work Act 2017 (c. 16), ss. 3(6), 70(2); S.I. 2018/346, reg. 4(c)
- F136** Words in s. 23E(1)(b) inserted (1.4.2011 for E., 19.6.2012 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 22(4), 44(4); S.I. 2010/2981, art. 4(g); S.I. 2012/1553, art. 2(a)
- F137** Words in s. 23E(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 80(a)
- F138** S. 23E(1ZA) inserted (1.4.2018) by Children and Social Work Act 2017 (c. 16), ss. 3(7), 70(2); S.I. 2018/346, reg. 4(c)
- F139** S. 23E(1A)-(1D) inserted (1.9.2009 for certain purposes for E., 26.4.2010 for certain purposes for W., 1.4.2011 for E. so far as not already in force, 19.6.2012 for W. so far as not already in force) by Children and Young Persons Act 2008 (c. 23), ss. 22(5), 44; S.I. 2009/2273, art. 2(2)(g); S.I. 2010/1329, art. 2(h); S.I. 2010/2981, art. 4(g) (with art. 6)
- F140** Word in s. 23E(1A) inserted (1.4.2018) by Children and Social Work Act 2017 (c. 16), ss. 3(8), 70(2); S.I. 2018/346, reg. 4(c)
- F141** Words in s. 23E(1A)(a) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 65(2); S.I. 2014/889, art. 7(a)
- F142** S. 23E(1A)(ba) inserted (1.9.2021) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), Sch. 1 para. 2(2)(b); S.I. 2021/373, art. 8(j)(ii)
- F143** Words in s. 23E(1B) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 80(b)
- F144** Word in s. 23E(1B) inserted (1.4.2018) by Children and Social Work Act 2017 (c. 16), ss. 3(9), 70(2); S.I. 2018/346, reg. 4(c)
- F145** Word in s. 23E(1D) inserted (1.4.2018) by Children and Social Work Act 2017 (c. 16), ss. 3(10), 70(2); S.I. 2018/346, reg. 4(c)
- F146** Words in s. 23E(2) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 80(c)

#### [<sup>F147</sup>24 Persons qualifying for advice and assistance.

[ In this Part “ a person qualifying for advice and assistance ” means a person to whom <sup>F148</sup>(1) subsection (1A) or (1B) applies.

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- (1A) This subsection applies to a person—
- (a) who has reached the age of sixteen but not the age of twenty-one;
  - (b) with respect to whom a special guardianship order is in force (or, if he has reached the age of eighteen, was in force when he reached that age); and
  - (c) who was, immediately before the making of that order, looked after by a local authority.
- (1B) This subsection applies to a person to whom subsection (1A) does not apply, and who—
- (a) is under twenty-one; and
  - (b) at any time after reaching the age of sixteen but while still a child was, but is no longer, looked after, accommodated or fostered.]
- (2) In <sup>F149</sup> subsection (1B)(b) ], “ looked after, accommodated or fostered ” means—
- (a) looked after by a local authority <sup>F150</sup>(without subsequently being looked after by a local authority in Wales)];
  - (b) accommodated by or on behalf of a voluntary organisation;
  - (c) accommodated in a private children’s home;
  - (d) accommodated for a consecutive period of at least three months—
    - (i) by any <sup>F151</sup> Local Health Board ] , Special Health Authority <sup>F152</sup> ... <sup>F153</sup> or by a local authority in the exercise of education functions ] , or
    - (ii) in any care home or independent hospital or in any accommodation provided <sup>F154</sup>pursuant to arrangements made by the Secretary of State, the National Health Service Commissioning Board or a clinical commissioning group under the National Health Service Act 2006 or] by a National Health Service trust <sup>F155</sup>or an NHS foundation trust][<sup>F156</sup>, or by a local authority in Wales in the exercise of education functions]; or
  - (e) privately fostered.
- (3) Subsection (2)(d) applies even if the period of three months mentioned there began before the child reached the age of sixteen.
- (4) In the case of a person qualifying for advice and assistance by virtue of subsection (2)
- (a), it is the duty of the local authority which last looked after him to take such steps as they think appropriate to contact him at such times as they think appropriate with a view to discharging their functions under sections 24A and 24B.
- (5) In each of sections 24A and 24B, the local authority under the duty or having the power mentioned there (“ the relevant authority ”) is—
- <sup>F157</sup>(za) [ in the case of a person to whom subsection (1A) applies, a local authority determined in accordance with regulations made by the <sup>F158</sup>Secretary of State];]
- (a) in the case of a person qualifying for advice and assistance by virtue of subsection (2)(a), the local authority which last looked after him; or
  - (b) in the case of any other person qualifying for advice and assistance, the local authority within whose area the person is (if he has asked for help of a kind which can be given under section 24A or 24B).]



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### Textual Amendments

- F147** Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, s. 4(1); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F148** S. 24(1)-(1B) substituted (30.12.2005) for s. 24(1) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 60(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F149** Words in s. 24(2) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 60(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F150** Words in s. 24(2)(a) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 81(a)
- F151** Words in s. 24(2)(d)(i) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), arts. 2, 3, Sch. para. 20(2)(b)
- F152** Words in s. 24(2)(d)(i) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 49(a); S.I. 2013/160, art. 2(2) (with arts. 7-10Sch. para. 14)
- F153** Words in s. 24(2)(d)(i) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), Sch. 2 para. 37(2)
- F154** Words in s. 24(2)(d)(ii) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 49(b); S.I. 2013/160, art. 2(2) (with arts. 7-10Sch. para. 14)
- F155** Words in s. 24(2)(d)(ii) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, Sch. 4 para. 76; S.I. 2004/759, art. 2
- F156** Words in s. 24(2)(d)(ii) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 81(b)
- F157** S. 24(5)(za) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 60(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F158** Words in s. 24(5)(za) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 81(c)

### Modifications etc. (not altering text)

- C15** S. 24(2)(c)(d)(ii) amended (*temp.* from 1.10.2001) by 2000 c. 35, s. 4(2)(a)(b); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

### [<sup>F159</sup> 24A] Advice and assistance.

- (1) The relevant authority shall consider whether the conditions in subsection (2) are satisfied in relation to a person qualifying for advice and assistance.
- (2) The conditions are that—
  - (a) he needs help of a kind which they can give under this section or section 24B; and
  - (b) in the case of a person [<sup>F160</sup>to whom section 24(1A) applies, or to whom section 24(1B) applies and ] who was not being looked after by any local authority [<sup>F161</sup>or local authority in Wales], they are satisfied that the person by whom he was being looked after does not have the necessary facilities for advising or befriending him.
- (3) If the conditions are satisfied—
  - (a) they shall advise and befriend him if [<sup>F162</sup>he is a person to whom section 24(1A) applies, or he is a person to whom section 24(1B) applies and] he was being looked after by a local authority [<sup>F163</sup>(without subsequently being looked after by a local authority in Wales)] or was accommodated by or on behalf of a voluntary organisation; and

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- (b) in any other case they may do so.
- (4) Where as a result of this section a local authority are under a duty, or are empowered, to advise and befriend a person, they may also give him assistance.
- (5) The assistance may be in kind <sup>[F164]</sup>and, in exceptional circumstances, assistance may be given—
- (a) by providing accommodation, if in the circumstances assistance may not be given in respect of the accommodation under section 24B, or
  - (b) in cash].
- (6) Subsections (7) to (9) of section 17 apply in relation to assistance given under this section or section 24B as they apply in relation to assistance given under that section.]

#### Textual Amendments

- F159** Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, s. 4(1); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F160** Words in s. 24A(2)(b) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 61(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F161** Words in s. 24A(2)(b) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 82(a)
- F162** Words in s. 24A(3)(a) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 61(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F163** Words in s. 24A(3)(a) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 82(b)
- F164** Words in s. 24A(5) substituted (7.11.2002) by 2002 c. 38, ss. 116(3), 148 (with Sch. 4 paras. 6-8)

#### Modifications etc. (not altering text)

- C16** S. 24A restricted (8.1.2002) by 2002 c. 41, s. 54, Sch. 3 (with s. 159); S.I. 2002/2811, art. 2, Sch.

#### <sup>[F165]</sup> 24B **Employment, education and training.**

- (1) The relevant local authority may give assistance to any person who qualifies for advice and assistance by virtue of <sup>[F166]</sup>section 24(1A) or] section 24(2)(a) by contributing to expenses incurred by him in living near the place where he is, or will be, employed or seeking employment.
- (2) The relevant local authority may give assistance to a person to whom subsection (3) applies by—
  - (a) contributing to expenses incurred by the person in question in living near the place where he is, or will be, receiving education or training; or
  - (b) making a grant to enable him to meet expenses connected with his education or training.
- (3) This subsection applies to any person who—
  - (a) is under <sup>[F167]</sup>twenty-five] ; and
  - (b) qualifies for advice and assistance by virtue of <sup>[F166]</sup>section 24(1A) or] section 24(2)(a), or would have done so if he were under twenty-one.
- (4) Where a local authority are assisting a person under subsection (2) they may disregard any interruption in his attendance on the course if he resumes it as soon as is reasonably practicable.

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- (5) Where the local authority are satisfied that a person to whom subsection (3) applies who is in full-time further or higher education needs accommodation during a vacation because his term-time accommodation is not available to him then, they shall give him assistance by—
- (a) providing him with suitable accommodation during the vacation; or
  - (b) paying him enough to enable him to secure such accommodation himself.
- (6) The [<sup>F168</sup>Secretary of State] may prescribe the meaning of “ full-time ”, “ further education ”, “ higher education ” and “ vacation ” for the purposes of subsection (5). ]

#### Textual Amendments

- F165** Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, s. 4(1); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F166** Words in s. 24B(1)(3)(b) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 62 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F167** Word in s. 24B(3)(a) substituted (1.4.2011 for E., 19.6.2012 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 23(2), 44(4); S.I. 2010/2981, art. 4(h); S.I. 2012/1553, art. 2(b)
- F168** Words in s. 24B(6) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 83

#### Modifications etc. (not altering text)

- C17** S. 24B restricted (8.1.2003) by 2002 c. 41, s. 54, Sch. 3 (with s. 159); S.I. 2002/2811, art. 2, Sch.

#### [<sup>F169</sup>24C Information.

- (1) Where it appears to a local authority that a person—
- (a) with whom they are under a duty to keep in touch under section 23B, 23C or 24; or
  - (b) whom they have been advising and befriending under section 24A; or
  - (c) to whom they have been giving assistance under section 24B,
- proposes to live, or is living, in the area of another local authority [<sup>F170</sup>, or in the area of a local authority in Wales], they must inform that other authority.

- [<sup>F171</sup>(2) Where a child who is accommodated in England—
- (a) by a voluntary organisation or in a private children’s home;
  - (b) by or on behalf of any Local Health Board or Special Health Authority;
  - (c) by or on behalf of a clinical commissioning group or the National Health Service Commissioning Board;
  - (d) by or on behalf of a local authority in the exercise of education functions;
  - (e) by or on behalf of a local authority in Wales in the exercise of education functions;
  - (f) in any care home or independent hospital; or
  - (g) in any accommodation provided by or on behalf of a National Health Service trust or by or on behalf of an NHS Foundation Trust,

ceases to be so accommodated after reaching the age of 16, the person by whom or on whose behalf the child was accommodated or who carries on or manages the home or hospital (as the case may be) must inform the local authority or local authority in Wales within whose area the child proposes to live.]

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- (3) Subsection (2) only applies, by virtue of <sup>F172</sup>any of paragraphs (b) to (g)], if the accommodation has been provided for a consecutive period of at least three months.
- <sup>F173</sup>(4) In a case where a child was accommodated by or on behalf of a local authority, or a local authority in Wales, in the exercise of education functions, subsection (2) applies only if the authority who accommodated the child is different from the authority within whose area the child proposes to live.]

#### Textual Amendments

- F169** Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, s. 4(1); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F170** Words in s. 24C(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 84(a)
- F171** S. 24C(2) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 84(b)
- F172** Words in s. 24C(3) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 84(c)
- F173** S. 24C(4) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 84(d)

#### <sup>F174</sup>24D Representations: sections 23A to 24B.

- (1) Every local authority shall establish a procedure for considering representations (including complaints) made to them by—
- (a) a relevant child for the purposes of section 23A or a young person falling within section 23C;
  - (b) a person qualifying for advice and assistance; or
  - (c) a person falling within section 24B(2),
- about the discharge of their functions under this Part in relation to him.
- [ Regulations may be made by the <sup>F176</sup>Secretary of State] imposing time limits on the <sup>F175</sup>(1A) making of representations under subsection (1).]
- (2) In considering representations under subsection (1), a local authority shall comply with regulations (if any) made by the <sup>F177</sup>Secretary of State] for the purposes of this subsection.]]

#### Textual Amendments

- F169** Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, s. 4(1); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F174** S. 24D inserted (1.10.2001) by 2000 c. 35, s. 5; S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F175** S. 24D(1A) inserted (7.12.2004) by 2002 c. 38, ss. 117(1), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, art. 2(m)(xi)
- F176** Words in s. 24D(1A) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 85(a)
- F177** Words in s. 24D(2) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 85(b)

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### *Secure accommodation*

## **25 Use of accommodation for restricting liberty.**

- (1) Subject to the following provisions of this section, a child who is being looked after by a local authority [<sup>F178</sup>in England or Wales] may not be placed, and, if placed, may not be kept, in accommodation [<sup>F179</sup>in England][<sup>F180</sup>or Scotland] provided for the purpose of restricting liberty (“secure accommodation”) unless it appears—
    - (a) that—
      - (i) he has a history of absconding and is likely to abscond from any other description of accommodation; and
      - (ii) if he absconds, he is likely to suffer significant harm; or
    - (b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.
  - (2) The [<sup>F181</sup>Secretary of State] may by regulations—
    - (a) specify a maximum period—
      - (i) beyond which a child may not be kept in secure accommodation [<sup>F182</sup>in England][<sup>F183</sup>or Scotland] without the authority of the court; and
      - (ii) for which the court may authorise a child to be kept in secure accommodation [<sup>F184</sup>in England][<sup>F183</sup>or Scotland] ;
    - (b) empower the court from time to time to authorise a child to be kept in secure accommodation [<sup>F185</sup>in England][<sup>F186</sup>or Scotland] for such further period as the regulations may specify; and
    - (c) provide that applications to the court under this section shall be made only by local authorities [<sup>F187</sup>in England or Wales] .
  - (3) It shall be the duty of a court hearing an application under this section to determine whether any relevant criteria for keeping a child in secure accommodation are satisfied in his case.
  - (4) If a court determines that any such criteria are satisfied, it shall make an order authorising the child to be kept in secure accommodation and specifying the maximum period for which he may be so kept.
  - (5) On any adjournment of the hearing of an application under this section, a court may make an interim order permitting the child to be kept during the period of the adjournment in secure accommodation.
- [<sup>F188</sup>(5A) Where a local authority in England or Wales are authorised under this section to keep a child in secure accommodation in Scotland, the person in charge of the accommodation may restrict the child’s liberty to the extent that the person considers appropriate, having regard to the terms of any order made by a court under this section.]
- (6) No court shall exercise the powers conferred by this section in respect of a child who is not legally represented in that court unless, having been informed of his right to apply for [<sup>F189</sup>the provision of representation under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012] and having had the opportunity to do so, he refused or failed to apply.
  - (7) The [<sup>F190</sup>Secretary of State] may by regulations provide that—

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- (a) this section shall or shall not apply to any description of children specified in the regulations;
  - (b) this section shall have effect in relation to children of a description specified in the regulations subject to such modifications as may be so specified;
  - (c) such other provisions as may be so specified shall have effect for the purpose of determining whether a child of a description specified in the regulations may be placed or kept in secure accommodation [<sup>F191</sup>in England][<sup>F192</sup>or Scotland] .
  - [<sup>F193</sup>(d) a child may only be placed in secure accommodation that is of a description specified in the regulations (and the description may in particular be framed by reference to whether the accommodation, or the person providing it, has been approved by the Secretary of State or the Scottish Ministers).]
- (8) The giving of an authorisation under this section shall not prejudice any power of any court in England and Wales or Scotland to give directions relating to the child to whom the authorisation relates.
- [<sup>F194</sup>(8A) Sections 168 and 169(1) to (4) of the Children’s Hearings (Scotland) Act 2011 ([asp 1](#)) (enforcement and absconding) apply in relation to an order under subsection (4) above as they apply in relation to the orders mentioned in section 168(3) or 169(1) (a) of that Act.]
- (9) This section is subject to section 20(8).

#### Extent Information

- E1** S. 25 extends to England and Wales with the exception of s. 25(8) which extends to Great Britain. See s. 108(11)(12).

#### Textual Amendments

- F178** Words in s. 25(1) substituted (27.4.2017) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(1)(a), [Sch. 1 para. 2\(2\)\(a\)](#)
- F179** Words in s. 25(1) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [86\(a\)\(ii\)](#)
- F180** Words in s. 25(1) inserted (27.4.2017) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(1)(a), [Sch. 1 para. 2\(2\)\(b\)](#)
- F181** Words in s. 25(2) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [86\(b\)](#)
- F182** Words in s. 25(2)(a)(i) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [86\(c\)](#)
- F183** Words in s. 25(2)(a)(i)(ii) inserted (27.4.2017) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(1)(a), [Sch. 1 para. 2\(3\)\(a\)](#)
- F184** Words in s. 25(2)(a)(ii) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [86\(c\)](#)
- F185** Words in s. 25(2)(b) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [86\(c\)](#)
- F186** Words in s. 25(2)(b) inserted (27.4.2017) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(1)(a), [Sch. 1 para. 2\(3\)\(a\)](#)
- F187** Words in s. 25(2)(c) substituted (27.4.2017) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(1)(a), [Sch. 1 para. 2\(3\)\(b\)](#)
- F188** S. 25(5A) inserted (27.4.2017) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(1)(a), [Sch. 1 para. 2\(4\)](#)

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- F189** Words in s. 25(6) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 5 para. 38](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F190** Words in s. 25(7) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\), regs. 2\(1\), 86\(e\)](#)
- F191** Words in s. 25(7)(c) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\), regs. 2\(1\), 86\(f\)](#)
- F192** Words in s. 25(7)(c) inserted (27.4.2017) by [Children and Social Work Act 2017 \(c. 16\), s. 70\(1\)\(a\), Sch. 1 para. 2\(5\)\(a\)](#)
- F193** S. 25(7)(d) inserted (27.4.2017) by [Children and Social Work Act 2017 \(c. 16\), s. 70\(1\)\(a\), Sch. 1 para. 2\(5\)\(b\)](#)
- F194** S. 25(8A) inserted (27.4.2017) by [Children and Social Work Act 2017 \(c. 16\), s. 70\(1\)\(a\), Sch. 1 para. 2\(6\)](#)

#### Modifications etc. (not altering text)

- C18** S. 25 excluded (14.10.1991) by [S.I. 1991/1505, reg. 5\(1\)](#).  
S. 25 excluded (14.10.1991) by [S.I. 1991/1505, reg. 5\(2\)](#).  
S. 25 modified (14.10.1991) by [S.I. 1991/1505, reg. 6\(1\)](#).  
S. 25 modified (14.10.1991) by [S.I. 1991/1505, reg. 7\(1\)](#).
- C19** S. 25 amendment to earlier affecting provision SI 1991/1505 reg. 6 (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential and Saving Provisions\) Regulations 2012 \(S.I. 2012/2824\), regs. 1, 2\(2\)](#) (with reg. 2(4)(5))
- C20** S. 25 excluded by SI 1991/1505, reg. 5A (as inserted (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Children Act 1989\) \(Children Remanded to Youth Detention Accommodation\) Regulations 2012 \(S.I. 2012/2813\), regs. 1\(1\), 6](#))
- C21** S. 25 extended to Scotland (27.4.2017) by [Children and Social Work Act 2017 \(c. 16\), s. 70\(1\)\(a\), Sch. 1 para. 2\(1\)](#)

#### Commencement Information

- I7** S. 25 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

### *<sup>F195</sup>Independent reviewing officers*

#### Textual Amendments

- F195** Ss. 25A, 25B and cross-heading inserted (1.9.2009 for certain purposes for E., 26.4.2010 for certain purposes for W., and and 1.4.2011 otherwise for E.) by [Children and Young Persons Act 2008 \(c. 23\), ss. 10\(1\), 44; S.I. 2009/2273, art. 2\(2\)\(c\); S.I. 2010/1329, art. 2\(c\); S.I. 2010/2981, art. 4\(c\)](#) (with art. 5)

### <sup>F196</sup>**25A Appointment of independent reviewing officer**

- (1) If a local authority are looking after a child, they must appoint an individual as the independent reviewing officer for that child's case.
- (2) The initial appointment under subsection (1) must be made before the child's case is first reviewed in accordance with regulations made under section 26.
- (3) If a vacancy arises in respect of a child's case, the local authority must make another appointment under subsection (1) as soon as is practicable.

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- (4) An appointee must be of a description prescribed in regulations made by the [<sup>F197</sup>Secretary of State].

#### Textual Amendments

- F196** S. 25A, 25B and crossheading inserted (1.9.2009 for E. for specified purposes, 26.4.2010 for W. for specified purposes, 1.4.2011 for E. so far as not already in force, 6.4.2016 for W. in so far as not already in force) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. **10(1)**, 44(4); S.I. 2009/2273, art. 2(2)(c); S.I. 2010/1329, art. 2(c); S.I. 2010/2981, art. 4(c) (with art. 5); S.I. 2016/452, art. 2(c)
- F197** Words in s. 25A(4) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **87**

#### <sup>F196</sup>**25B Functions of the independent reviewing officer**

- (1) The independent reviewing officer must—
- (a) monitor the performance by the local authority of their functions in relation to the child's case;
  - (b) participate, in accordance with regulations made by the [<sup>F198</sup>Secretary of State], in any review of the child's case;
  - (c) ensure that any ascertained wishes and feelings of the child concerning the case are given due consideration by the local authority;
  - (d) perform any other function which is prescribed in regulations made by the [<sup>F199</sup>Secretary of State].
- (2) An independent reviewing officer's functions must be performed—
- (a) in such manner (if any) as may be prescribed in regulations made by the [<sup>F200</sup>Secretary of State]; and
  - (b) having regard to such guidance as that authority may issue in relation to the discharge of those functions.
- (3) If the independent reviewing officer considers it appropriate to do so, the child's case may be referred by that officer to—
- (a) an officer of the Children and Family Court Advisory and Support Service;  
<sup>F201</sup> ...
  - <sup>F201</sup>(b) .....
- (4) If the independent reviewing officer is not an officer of the local authority, it is the duty of the authority—
- (a) to co-operate with that individual; and
  - (b) to take all such reasonable steps as that individual may require of them to enable that individual's functions under this section to be performed satisfactorily.

#### Textual Amendments

- F196** S. 25A, 25B and crossheading inserted (1.9.2009 for E. for specified purposes, 26.4.2010 for W. for specified purposes, 1.4.2011 for E. so far as not already in force, 6.4.2016 for W. in so far as not already in force) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. **10(1)**, 44(4); S.I. 2009/2273, art. 2(2)(c); S.I. 2010/1329, art. 2(c); S.I. 2010/2981, art. 4(c) (with art. 5); S.I. 2016/452, art. 2(c)



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- F198** Words in s. 25B(1)(b) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **88(a)**
- F199** Words in s. 25B(1)(d) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **88(a)**
- F200** Words in s. 25B(2)(a) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **88(a)**
- F201** S. 25B(3)(b) and preceding word omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **88(b)**

### Referred cases

<sup>F202</sup>

- 25C** (1) In relation to children whose cases are referred to officers under section 25B(3), the Lord Chancellor may by regulations—
- (a) extend any functions of the officers in respect of family proceedings (within the meaning of section 12 of the Criminal Justice and Court Services Act 2000) to other proceedings;
  - (b) require any functions of the officers to be performed in the manner prescribed by the regulations.

<sup>F203</sup> (2) . . . . . ]

### Textual Amendments

- F202** S. 25C inserted (1.4.2011 for E., 1.12.2017 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. **10(2)**, 44(4); S.I. 2010/2981, art. 4(c); S.I. 2017/948, art. 2(b)
- F203** S. 25C(2) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **89**

## 26 Review of cases and inquiries into representations.

- (1) The [<sup>F204</sup>Secretary of State] may make regulations requiring the case of each child who is being looked after by a local authority to be reviewed in accordance with the provisions of the regulations.
- (2) The regulations may, in particular, make provision—
  - (a) as to the manner in which each case is to be reviewed;
  - (b) as to the considerations to which the local authority are to have regard in reviewing each case;
  - (c) as to the time when each case is first to be reviewed and the frequency of subsequent reviews;
  - (d) requiring the authority, before conducting any review, to seek the views of—
    - (i) the child;
    - (ii) his parents;
    - (iii) any person who is not a parent of his but who has parental responsibility for him; and
    - (iv) any other person whose views the authority consider to be relevant, including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review;
  - (e) requiring the authority <sup>F205</sup> . . . , in the case of a child who is in their care

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- [ to keep the section 31A plan for the child under review and, if they <sup>F206</sup>(i) are of the opinion that some change is required, to revise the plan, or make a new plan, accordingly,
    - (ii) to consider], whether an application should be made to discharge the care order;
  - (f) requiring the authority <sup>F207</sup> . . . . , in the case of a child in accommodation provided by the authority
    - <sup>F208</sup>(i) [ if there is no plan for the future care of the child, to prepare one,
      - (ii) if there is such a plan for the child, to keep it under review and, if they are of the opinion that some change is required, to revise the plan or make a new plan, accordingly,
      - (iii) to consider], whether the accommodation accords with the requirements of this Part;
    - (g) requiring the authority to inform the child, so far as is reasonably practicable, of any steps he may take under this Act;
    - (h) requiring the authority to make arrangements, including arrangements with such other bodies providing services as it considers appropriate, to implement any decision which they propose to make in the course, or as a result, of the review;
    - (i) requiring the authority to notify details of the result of the review and of any decision taken by them in consequence of the review to—
      - (i) the child;
      - (ii) his parents;
      - (iii) any person who is not a parent of his but who has parental responsibility for him; and
      - (iv) any other person whom they consider ought to be notified;
    - (j) requiring the authority to monitor the arrangements which they have made with a view to ensuring that they comply with the regulations.

- <sup>F209</sup>( k) . . . . .
- <sup>F210</sup>( 2A ) . . . . .
- <sup>F210</sup>(2B) . . . . .
- <sup>F210</sup>( 2C ) . . . . .
- <sup>F210</sup>( 2D ) . . . . .

- (3) Every local authority shall establish a procedure for considering any representations (including any complaint) made to them by—
  - (a) any child who is being looked after by them or who is not being looked after by them but is in need;
  - (b) a parent of his;
  - (c) any person who is not a parent of his but who has parental responsibility for him;
  - (d) any local authority foster parent;
  - (e) such other person as the authority consider has a sufficient interest in the child’s welfare to warrant his representations being considered by them,
 about the discharge by the authority of any of their <sup>F211</sup>qualifying functions ]in relation to the child.

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- [ The following are qualifying functions for the purposes of subsection (3)—
- <sup>F212</sup>(3A) (a) functions under this Part,  
(b) such functions under Part 4 or 5 as are specified by the [<sup>F213</sup>Secretary of State] in regulations.
- (3B) The duty under subsection (3) extends to representations (including complaints) made to the authority by—
- (a) any person mentioned in section 3(1) of the Adoption and Children Act 2002 (persons for whose needs provision is made by the Adoption Service) and any other person to whom arrangements for the provision of adoption support services (within the meaning of that Act) extend,  
(b) such other person as the authority consider has sufficient interest in a child who is or may be adopted to warrant his representations being considered by them,
- about the discharge by the authority of such functions under the Adoption and Children Act 2002 as are specified by the [<sup>F214</sup>Secretary of State] in regulations.]
- [ The duty under subsection (3) extends to any representations (including complaints)
- <sup>F215</sup>(3C) which are made to the authority by—
- (a) a child with respect to whom a special guardianship order is in force,  
(b) a special guardian or a parent of such a child,  
(c) any other person the authority consider has a sufficient interest in the welfare of such a child to warrant his representations being considered by them, or  
(d) any person who has applied for an assessment under section 14F(3) or (4),
- about the discharge by the authority of such functions under section 14F as may be specified by the [<sup>F216</sup>Secretary of State] in regulations.]
- (4) The procedure shall ensure that at least one person who is not a member or officer of the authority takes part in—
- (a) the consideration; and  
(b) any discussions which are held by the authority about the action (if any) to be taken in relation to the child in the light of the consideration
- [<sup>F217</sup>but this subsection is subject to subsection (5A).]
- [ Regulations may be made by the [<sup>F219</sup>Secretary of State] imposing time limits on the
- <sup>F218</sup>(4A) making of representations under this section.]
- (5) In carrying out any consideration of representations under this section a local authority shall comply with any regulations made by the [<sup>F220</sup>Secretary of State] for the purpose of regulating the procedure to be followed.
- [ Regulations under subsection (5) may provide that subsection (4) does not apply in
- <sup>F221</sup>(5A) relation to any consideration or discussion which takes place as part of a procedure for which provision is made by the regulations for the purpose of resolving informally the matters raised in the representations.]
- (6) The [<sup>F222</sup>Secretary of State] may make regulations requiring local authorities to monitor the arrangements that they have made with a view to ensuring that they comply with any regulations made for the purposes of subsection (5).
- (7) Where any representation has been considered under the procedure established by a local authority under this section, the authority shall—

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- (a) have due regard to the findings of those considering the representation; and
  - (b) take such steps as are reasonably practicable to notify (in writing)—
    - (i) the person making the representation;
    - (ii) the child (if the authority consider that he has sufficient understanding); and
    - (iii) such other persons (if any) as appear to the authority to be likely to be affected,
 of the authority's decision in the matter and their reasons for taking that decision and of any action which they have taken, or propose to take.
- (8) Every local authority shall give such publicity to their procedure for considering representations under this section as they consider appropriate.

#### Textual Amendments

- F204** Words in s. 26(1) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **90(a)**
- F205** Words in s. 26(2)(e) omitted (21.5.2004) and repealed (30.12.2005) by virtue of 2002 c. 38, ss. 118(1)(a), 139, 148, [Sch. 5 \(with Sch. 4 paras. 6-8\)](#); S.I. 2004/1403, [art. 2](#); S.I. 2005/2897, [art. 2\(b\)](#)
- F206** Words in s. 26(2)(e) inserted (21.5.2004) by 2002 c. 38, ss. 118(1)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2004/1403, [art. 2](#)
- F207** Words in s. 26(2)(f) omitted (21.5.2004) and repealed (30.12.2005) by virtue of 2002 c. 38, ss. 118(1)(a), 139, 148, [Sch. 5 \(with Sch. 4 paras. 6-8\)](#); S.I. 2004/1403, [art. 2](#); S.I. 2005/2897, [art. 2\(b\)](#)
- F208** Words in s. 26(2)(f) inserted (21.5.2004) by 2002 c. 38, ss. 118(1)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2004/1403, [art. 2](#)
- F209** S. 26(2)(k) repealed (1.4.2011 for E., 6.4.2016 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 10(3)(a), 44(4), [Sch. 4](#); S.I. 2010/2981, art. 4(c)(l) (with art. 5); S.I. 2016/452, art. 2(c) (with art. 3)
- F210** S. 26(2A)-(2D) repealed (1.4.2011 for E., 6.4.2016 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 10(3)(b), 44(4), [Sch. 4](#); S.I. 2010/2981, art. 4(c)(l) (with art. 5); S.I. 2016/452, art. 2(c) (with art. 3)
- F211** Words in s. 26(3) substituted (30.12.2005) by 2002 c. 38, ss. 117(5), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, [art. 2\(k\)](#)
- F212** S. 26(3A)(3B) inserted (7.12.2004 for specified purposes and otherwise 30.12.2005) by 2002 c. 38, ss. 117(4), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, [art. 2\(1\)\(m\)\(xi\)](#); S.I. 2005/2213, [art. 2\(k\)](#)
- F213** Words in s. 26(3A) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **90(b)**
- F214** Words in s. 26(3B) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **90(c)**
- F215** S. 26(3C) inserted (17.1.2005 for E. and 30.12.2005 for W.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. **117(1)**; S.I. 2005/38, [art. 2\(a\)](#); S.I. 2005/2925, [art. 8](#); S.I. 2005/3285, [art. 2\(1\)](#)
- F216** Words in s. 26(3C) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **90(d)**
- F217** Words in s. 26(4) inserted (30.12.2005) by 2002 c. 38, ss. 117(5), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, [art. 2\(k\)](#)
- F218** S. 26(4A) inserted (7.12.2004) by 2002 c. 38, ss. 117(6), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, [art. 2\(1\)\(m\)\(xi\)](#)
- F219** Words in s. 26(4A) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **90(e)**
- F220** Words in s. 26(5) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **90(f)**

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**F221** S. 26(5A) inserted (30.12.2005) by 2002 c. 38, ss. 117(7), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

**F222** Words in s. 26(6) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **90(g)**

#### Commencement Information

**18** S. 26 wholly in force at 14.10.1991, see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### [ **Representations: further consideration**

**F223** **26ZA** **F224** .....

#### Textual Amendments

**F223** S. 26ZA inserted (20.11.2003 for certain purposes and otherwise prosp.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 116(1), 199**

**F224** S. 26ZA repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 184, 188, Sch. 14 para. 10, **Sch. 18 Pt. 5**; S.I. 2007/935, **art. 5(gg)(ii)**

#### **F225** **Representations: further consideration (Wales)**

**26ZB** .....

#### Textual Amendments

**F225** S. 26ZB omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **91**

#### [ **Advocacy services**

**F226** **26A**  
(1) Every local authority shall make arrangements for the provision of assistance to—  
(a) persons who make or intend to make representations under section 24D; and  
(b) children who make or intend to make representations under section 26.

(2) The assistance provided under the arrangements shall include assistance by way of representation.

**F227** ( **2A** ) .....

(3) The arrangements—  
(a) shall secure that a person may not provide assistance if he is a person who is prevented from doing so by regulations made by the [**F228**Secretary of State]; and  
(b) shall comply with any other provision made by the regulations in relation to the arrangements.

(4) The [**F229**Secretary of State] may make regulations requiring local authorities to monitor the steps that they have taken with a view to ensuring that they comply with regulations made for the purposes of subsection (3).

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- (5) Every local authority shall give such publicity to their arrangements for the provision of assistance under this section as they consider appropriate.]

**Textual Amendments**

**F226** S. 26A inserted (30.1.2004 for certain purposes and otherwise 1.4.2004) by 2002 c. 38, ss. 119, 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, art. 2(3)(4)(b)

**F227** S. 26A(2A) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 92(a)

**F228** Words in s. 26A(3)(a) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 92(b)

**F229** Words in s. 26A(4) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 92(b)

**27 Co-operation between authorities.**

- (1) Where it appears to a local authority that any authority <sup>F230</sup> . . . mentioned in subsection (3) could, by taking any specified action, help in the exercise of any of their functions under this Part, they may request the help of that other authority <sup>F230</sup> . . . specifying the action in question.
- (2) An authority whose help is so requested shall comply with the request if it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions.
- (3) The [<sup>F231</sup>authorities] are—
- (a) any local authority;
  - <sup>F232</sup>(b) . . . . .
  - (c) any local housing authority;
  - <sup>F233</sup>(ca) [ the National Health Service Commissioning Board;]
  - (d) any [<sup>F234</sup>clinical commissioning group,][<sup>F235</sup>[<sup>F236</sup>Local Health Board], Special Health Authority]<sup>F237</sup> ... [<sup>F238</sup>, National Health Service trust or NHS foundation trust];
  - <sup>F239</sup>(da) [ any local authority in Wales]; and
  - (e) any person authorised by the [<sup>F240</sup>Secretary of State] for the purposes of this section.

[ The Secretary of State must not authorise the Welsh Ministers under subsection (3) <sup>F241</sup>(3A) (e) without their consent.]

<sup>F242</sup>(4) . . . . .

**Textual Amendments**

**F230** Words in s. 27(1) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 14(a), Sch. 20; S.I. 1991/1883, art. 3, Sch.

**F231** Word in s. 27(3) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 14(b); S.I. 1991/1883, art. 3, Sch.

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- F232** Words in s. 27(3)(b) repealed (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1)(2), Sch. 2 para. 37(4), **Sch. 3 Pt. 2**
- F233** S. 27(3)(ca) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 51(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F234** Words in s. 27(3)(d) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 51(b)(i)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F235** Words in s. 27(3)(d) substituted (1.4.1996) by 1995 c. 17, ss. 1(2), 2(1)(3), **Sch. 1**, Pt. III, para. 118(5)(with Sch. 2, para. 6)
- F236** Words in s. 27(3)(d) substituted (1.4.2007) by [The References to Health Authorities Order 2007 \(S.I. 2007/961\)](#), arts. 2, 3 {Sch. para. 20(2)(d)}
- F237** Words in s. 27(3)(d) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 51(b)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F238** Words in s. 27(3)(d) substituted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 34, **Sch. 4 para. 78**; S.I. 2004/759, art. 2
- F239** S. 27(3)(da) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **93(a)**
- F240** Words in s. 27(3)(e) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **93(b)**
- F241** S. 27(3A) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **93(c)**
- F242** S. 27(4) repealed (1.9.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 147, **Sch. 21 Pt. II**; S.I. 1994/2038, art. 3, **Sch. 2**, Appendix

#### Commencement Information

- I9** S. 27 in force at 14.10.1991, see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

## 28 Consultation with local education authorities.

**F243** .....

#### Textual Amendments

- F243** S. 28 repealed (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1)(2), Sch. 2 para. 37(5), **Sch. 3 Pt. 2**

#### Commencement Information

- I10** S. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

## 29 Recoupment of cost of providing services etc.

- (1) Where a local authority provide any service under section 17 or 18, other than advice, guidance or counselling, they may recover from a person specified in subsection (4) such charge for the service as they consider reasonable.
- (2) Where the authority are satisfied that that person's means are insufficient for it to be reasonably practicable for him to pay the charge, they shall not require him to pay more than he can reasonably be expected to pay.
- (3) No person shall be liable to pay any charge under subsection (1) [<sup>F244</sup>for a service provided under section 17 or section 18(1) or (5)] at any time when he is in receipt [<sup>F245</sup>of universal credit (except in such circumstances as may be prescribed),] of income

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support [F246 under] [F247 Part VII of the Social Security Contributions and Benefits Act 1992] [F248, of any element of child tax credit other than the family element, of working tax credit] [F249, of an income-based jobseeker's allowance or of an income-related employment and support allowance].

[ No person shall be liable to pay any charge under subsection (1) for a service provided F250(3A) under section 18(2) or (6) at any time when he is in receipt [F245 of universal credit (except in such circumstances as may be prescribed),] of income support under Part VII of the Social Security Contributions and Benefits Act 1992 [F249, of an income-based jobseeker's allowance or of an income-related employment and support allowance].]

[ No person shall be liable to pay any charge under subsection (1) for a service provided F251(3B) under section 18(2) or (6) at any time when—

- (a) he is in receipt of guarantee state pension credit under section 1(3)(a) of the State Pension Credit Act 2002, or
- (b) he is a member of a [F252 couple] (within the meaning of that Act) the other member of which is in receipt of guarantee state pension credit.]

(4) The persons are—

- (a) where the service is provided for a child under sixteen, each of his parents;
- (b) where it is provided for a child who has reached the age of sixteen, the child himself; and
- (c) where it is provided for a member of the child's family, that member.

(5) Any charge under subsection (1) may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

(6) Part III of Schedule 2 makes provision in connection with contributions towards the maintenance of children who are being looked after by local authorities and consists of the re-enactment with modifications of provisions in Part V of the M4 Child Care Act 1980.

(7) Where a local authority provide any accommodation under section 20(1) for a child who was (immediately before they began to look after him) ordinarily resident within the area of another local authority [F253 or the area of a local authority in Wales], they may recover from that other authority any reasonable expenses incurred by them in providing the accommodation and maintaining him.

(8) Where a local authority provide accommodation under section 21(1) or (2)(a) or (b) for a child who is ordinarily resident within the area of another local authority [F254 or the area of a local authority in Wales] and they are not maintaining him in—

- (a) a community home provided by them;
- (b) a controlled community home; or
- (c) a hospital vested in the [F255 Secretary of State or] [F256, the Welsh Ministers] F257 ... [F258 or any other hospital made available pursuant to arrangements made by [F259, the Secretary of State, the National Health Service Commissioning Board or a clinical commissioning group under the National Health Service Act 2006 or by] F260 ..., a [F261 Local Health Board] F257 ...,],

they may recover from that other authority any reasonable expenses incurred by them in providing the accommodation and maintaining him.

(9) [F262 Except where subsection (10) [F263 or subsection (11)] applies,] Where a local authority comply with any request under section 27(2) [F264 or section 164A(2) of



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the Social Services and Well-being (Wales) Act 2014 (duty of other persons to co-operate and provide information)] in relation to a child or other person who is not ordinarily resident within their area, they may recover from the local authority [<sup>F265</sup>or a local authority in Wales] in whose area the child or person is ordinarily resident any [<sup>F266</sup>reasonable expenses] incurred by them in respect of that person.

[ Where a local authority (“ authority A ”) comply with any request under section 27(2)  
<sup>F267</sup>(10) from another local authority (“ authority B ”) in relation to a child or other person—  
(a) whose responsible authority is authority B for the purposes of section 23B or 23C; or  
(b) whom authority B are advising or befriending or to whom they are giving assistance by virtue of section 24(5)(a),  
authority A may recover from authority B any reasonable expenses incurred by them in respect of that person.]

[ Where a local authority (“authority A”) comply with any request under  
<sup>F268</sup>(11) section 164A(2) of the Social Services and Well-being (Wales) Act 2014 (duty of other persons to co-operate and provide information) from a local authority in Wales (“authority B”) in relation to a person, and authority B are the responsible local authority for that person (within the meaning of section 104(5)(b) (except for category 4 young persons) or (d) of that Act), then authority A may recover from authority B any reasonable expenses incurred by them in respect of that person.]

#### Textual Amendments

- F244** Words in s. 29(3) inserted (25.8.2000 in relation to E. and otherwise 28.7.2001) by 2000 c. 22, ss. **103(1)**, 108(4); S.I. 2000/2420, **art. 2**
- F245** Words in s. 29(3)(3A) inserted (29.4.2013) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 2 para. 1(c)**; S.I. 2013/983, **art. 3(1)(b)(i)**
- F246** Words in s. 29(3) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, **Sch. 3 para. 18(a)**; S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)
- F247** Words in s. 29(3) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para 108(b)**.
- F248** Words in s. 29(3) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, **Sch. 3 para. 18(b)**; S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)
- F249** Words in s. 29(3)(3A) substituted (27.10.2008) by Welfare Reform Act 2007 (c. 5), ss. 28, 70, {Sch, 3 para. 6(4)}; S.I. 2008/787, **art. 2(4)(f)**
- F250** S. 29(3A) inserted (25.8.2000 in relation to E. and otherwise 28.7.2001) by 2000 c. 22, ss. **103(1)**, 108(4); S.I. 2000/2420, **art. 2**
- F251** S. 29(3B) inserted (2.7.2002 for certain purposes, otherwise 6.10.2003) by 2002 c. 16, s. 14, **Sch. 2 para. 30**; S.I. 2002/1691, **art. 2**; S.I. 2003/1766, **art. 2(a)**
- F252** Words in s. 29(3B) substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 4(4)**, **Sch. 4 para. 9**
- F253** Words in s. 29(7) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **94(a)**
- F254** Words in s. 29(8) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **94(b)**
- F255** Words in s. 29(8)(c) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 52(a)**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F256** Words in s. 29(8)(c) inserted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 20**
- F257** Words in s. 29(8)(c) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 52(b)**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)

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<b>F258</b>	Words in s. 29(8)(c) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), <b>Sch. 9 para. 36(3)</b>
<b>F259</b>	Words in s. 29(8)(c) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), <b>Sch. 5 para. 52(c)</b> ; S.I. 2013/160, art. 2(2) (with arts. 7-9)
<b>F260</b>	Words in s. 29(8)(c) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), <b>Sch. 5 para. 52(d)</b> ; S.I. 2013/160, art. 2(2) (with arts. 7-9)
<b>F261</b>	Words in s. 29(8)(c) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), <b>arts. 2, 3</b> {Sch. para. 20(2)(e)}
<b>F262</b>	Words in s. 29(9) inserted (1.10.2001) by 2000 c. 35, <b>s. 7(3)(a)</b> ; S.I. 2001/2191, <b>art. 2</b> ; 2001/2878, art. 2
<b>F263</b>	Words in s. 29(9) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), <b>94(c)(i)</b>
<b>F264</b>	Words in s. 29(9) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), <b>94(c)(ii)</b>
<b>F265</b>	Words in s. 29(9) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), <b>94(c)(iii)</b>
<b>F266</b>	Words in s. 29(9) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, <b>Sch. 16 para. 15</b> ; S.I. 1991/1883, art. 3, <b>Sch.</b>
<b>F267</b>	S. 29(10) inserted (1.10.2001) by 2000 c. 35, <b>s. 7(3)(b)</b> ; S.I. 2001/2191, <b>art. 2</b> ; S.I. 2001/2878, <b>art. 2</b>
<b>F268</b>	S. 29(11) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), <b>94(d)</b>
<b>Commencement Information</b>	
<b>I11</b>	S. 29 in force at 14.10.1991, see s. 108(2)(3) and S.I. 1991/828, <b>art. 3(2)</b>
<b>Marginal Citations</b>	
<b>M4</b>	1980 c. 5.

**30 Miscellaneous.**

- (1) Nothing in this Part shall affect any duty imposed on a local authority by or under any other enactment.
- (2) Any question arising under section 20(2), 21(3) or 29(7) to (9) as to the ordinary residence of a child shall be determined by agreement between the local authorities concerned or, in default of agreement, by the <sup>F269</sup>Secretary of State<sup>F270</sup> but see subsection (2C)].

<sup>F271</sup>(2A) .....

<sup>F271</sup>(2B) .....

[ Any question arising as to whether a child is ordinarily resident—

- <sup>F272</sup>(2C) (a) in the area of a local authority under section 20(2), 21(3) or 29(7) to (9), or
  - (b) in the area of a local authority in Wales under section 76(2), 77(4) or (5), or 193(3) to (6) of the Social Services and Well-being (Wales) Act 2014,
- shall be determined by the local authority and local authority in Wales concerned, or in default of agreement, by the Secretary of State.]

<sup>F272</sup>(2D) [ The Secretary of State must consult the Welsh Ministers before making a determination under subsection (2C).]

(3) <sup>F273</sup> .....

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- (4) The [<sup>F274</sup>Secretary of State] may make regulations for determining, as respects any [<sup>F275</sup>education] functions specified in the regulations, whether a child who is being looked after by a local authority is to be treated, for purposes so specified, as a child of parents of sufficient resources or as a child of parents without resources.]

**Textual Amendments**

- F269** Words in s. 30(2) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **95(a)(i)**
- F270** Words in s. 30(2) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **95(a)(ii)**
- F271** S. 30(2A)(2B) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **95(b)**
- F272** Words in s. 30(2C)(2D) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **95(c)**
- F273** S. 30(3) repealed (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1)(2), Sch. 2 para. 37(6)(a), **Sch. 3 Pt. 2**
- F274** Words in s. 30(4) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **95(d)**
- F275** Words in s. 30(4) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), **Sch. 2 para. 37(6)(b)**

**Commencement Information**

- I12** S. 30 wholly in force at 14.10.1991, see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

<sup>F276</sup> **Meaning of appropriate national authority**

**30A**

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**Textual Amendments**

- F276** S. 30A omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **96**

**Status:**

Point in time view as at 06/04/2022.

**Changes to legislation:**

Children Act 1989, Part III is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.